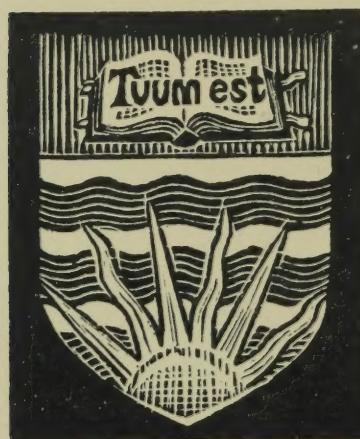




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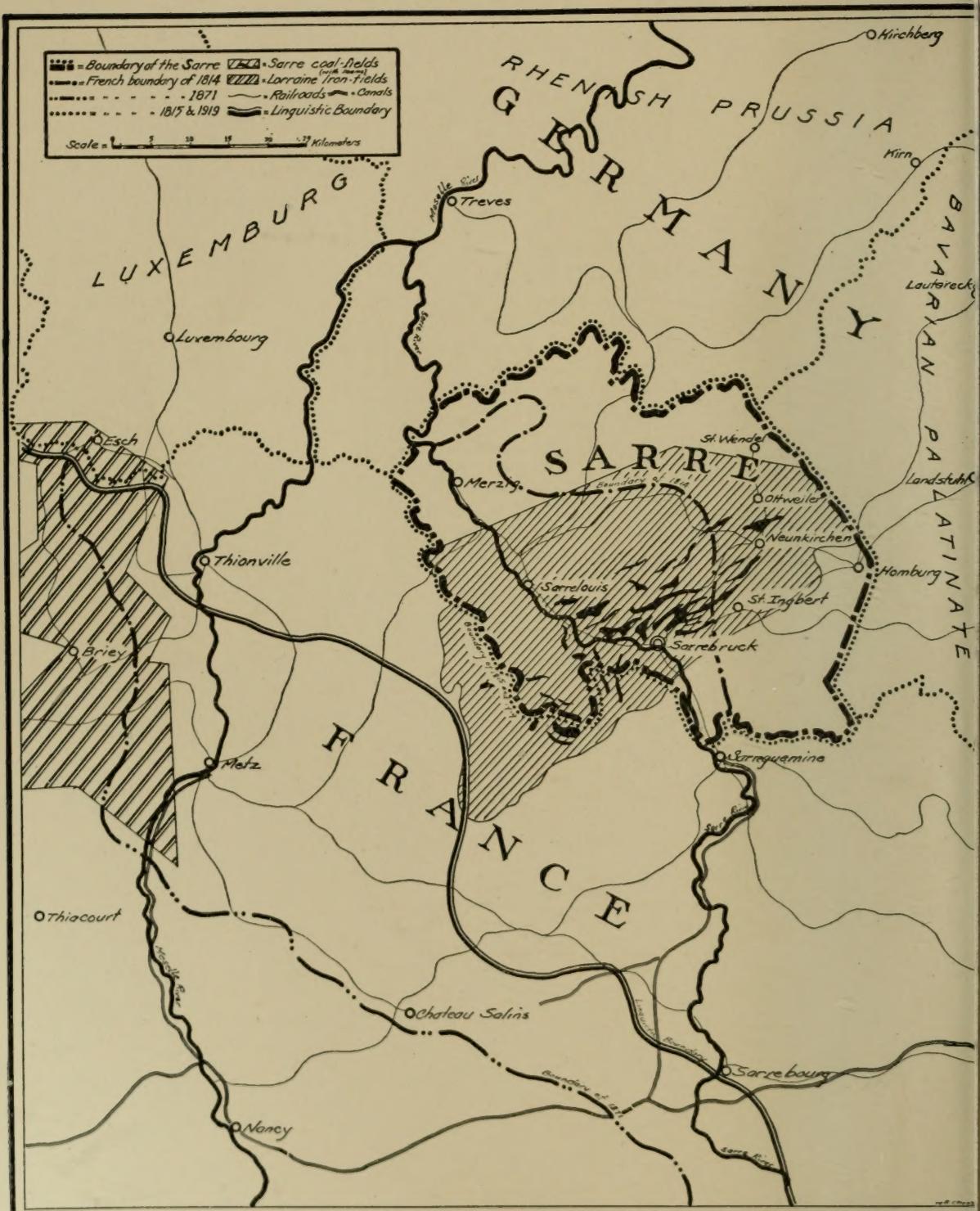












Territory of the Saar and the Lorraine Iron Fields.

# THE INTERNATIONAL GOVERNMENT OF THE SAAR

BY  
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## PREFACE

Under the terms of the Treaty of Versailles the League of Nations is required to shoulder a number of specific responsibilities in connection with certain of the territorial changes provided for in the Treaty. Already a considerable literature of indiscriminate praise from the League's friends and unqualified censure from its enemies, concerning the manner in which it has met these responsibilities, has appeared. On the other hand very few objective studies of the League and of the Treaty have been attempted. The field has been almost entirely surrendered to the pros and antis, doubtless because scholars have felt that their own entry would be premature and fruitless.

It may be conceded at once that it is too early to render anything approaching a final judgment on all of the political and economic arrangements made at Paris in 1919, but it would seem to be not only possible but desirable, before the actors vanish altogether from the political scene, to work out tentative assessments of those parts of the Treaty for which the necessary data may be gathered. The Saar arrangement falls within this category. Not only are the essential documents available for a study of the origin and working of the Saar régime under the League of Nations, but the authors of the scheme and those charged with the responsibility of carrying it out are accessible to the seeker of information.

The present study of the Saar is concerned primarily with the international political aspects of the Treaty provisions, and for that reason the admittedly important economic factors have been given space only as they have influenced or been affected by the political situation. It will appear, however, that they have played a powerful part.

The purely administrative tasks and achievements of the Saar Basin Governing Commission have already been treated more or less fully by Haskins, Priou, and others, and I have accordingly pruned my own discussion rather severely. It is becoming increasingly evident, too, that, while inefficient administration by the Governing Commission would aggravate the political discontent in the Territory, mere technical efficiency of the most marked sort is not likely to furnish any real solution for the Saar problem. The key to an understanding of the situation seems to lie in the field of polities rather than in the field of administration.

Many persons have aided me in one way or another in making this study, and whatever of merit it possesses is largely due to their cooperation and assistance. Among these I desire to make special acknowledgment to Dr. David P. Barrows of the University of California, President Ray Lyman Wilbur, and Chancellor David Starr Jordan of Stanford University, Dean Frank Probert of the College of Mining of the University of California, Professors Frank Golder, E. D. Adams, Ralph Lutz, V. J. West, and Graham Stuart of Stanford University, Miss Sarah Wambaugh of Cambridge, Massachusetts, Professor Manley Hudson of Harvard University, David Hunter Miller of New York, and Ray Stannard Baker.

It was my good fortune, also, to meet and talk with the three members of the committee charged by the Council of Four with the task of drawing up the Saar section of the Treaty—Dr. Charles H. Haskins of Harvard, Mr. Headlam-Morley of the British Foreign Office, and M. Tardieu, member of the French Chamber of Deputies. They were most generous in extending many courtesies and in giving me indispensable aid.

The five members of the Saar Basin Governing Commission—M. Rault (Chairman), Major Lambert, Count Moltke-Huitfeldt, Mr. Julius Land and Mr. Richard Waugh—were good enough to grant me personal interviews at Saarbrucken during the summer of 1923. Similar courtesies were extended by the officials of the French Mines Administration, and by various German political leaders and industrial magnates in the Saar.

Finally, I desire to express my appreciation for the helpfulness of individual members of the Secretariat of the League of Nations, and to Miss Florence Wilson, the efficient and courteous head of the library of the League, for many favors. My wife might have been mentioned first as well as last, for she contributed toward the advancement of the project at all stages.

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## CHAPTER I

### INTRODUCTION

With the victors in war rest the decisions of peace, unless the vanquished displays a superiority in the use of weapons of diplomacy. On the seventh day of May, 1919, the representatives of the triumphant Allied and Associated Powers invited the German plenipotentiaries to the Trianon palace to receive the decisions of the victors of the latest war, as embodied in a document referred to by the President of the Peace Conference, M. Clemenceau, as the "Second Treaty of Versailles."<sup>1</sup> On the 28th of June, bowing unwillingly to *force majeure*, as the French had done in 1871, the Germans affixed their signatures to the Treaty.<sup>2</sup>

The spirit as well as the letter of the Treaty of Versailles will be explained by the historian in the light of the conditions which gave it birth; judgment will be passed on its wisdom according to its ascertainable effects on the several states and peoples with which it deals, and on international relationships as its provisions are interpreted and applied.

Perhaps it is premature to attempt at this time a complete assessment of the Treaty by the pragmatic test. Many things, after all, may be consequences of the War and not consequences of the Peace. The enterprise of the writer, then, is less ambitious—it is to examine a section of the Treaty the origin of which no longer remains obscure, and the application of which has been uninterrupted for a period of over five years. Such a study should yield results of some value, possibly, to those who would see mankind evolve out of the stone age of international social and political relations.

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<sup>1</sup> R. S. Baker, *Woodrow Wilson and World Settlement*, II, 502.

<sup>2</sup> *Ibid.*, 519; also Temperley, H. W. V., *A History of the Peace Conference of Paris*, II, 18-19.

Section IV (Part III) of the Treaty provides in brief first, that the coal deposits and mines of the Saar, an industrial district of southwestern Germany lying immediately east of Lorraine,<sup>3</sup> should pass in full ownership to the French State; second, that the district itself should be under an international government for a period of fifteen years; third, that at the conclusion of this period a plebiscite should be held to determine whether the international régime should be made permanent, whether the territory should be incorporated into France, or whether German sovereignty should be restored.

This compromise solution of an extremely difficult problem resulting from French demands for the territory, may be regarded from a number of different angles of interest. It may be noted as an historical incident recording profit and loss at the latest stage of a long period of Franco-German rivalry; it may attract attention as the culminating point of a dramatic struggle involving third parties which threatened to divide the victors and break up the Peace Conference itself; it may be analyzed as a novel experiment in international government and administration; finally, it may be studied as an effort to aid in the solution of the Franco-German problem that there may be a more stable Europe and a more peaceful world. The last two approaches lead into the field of international government and politics and it is with these matters that the writer is concerned.

In the attempt to draw political boundaries and dispose of peoples and territories so as to meet the demands of justice and the needs of international stability an examination of historical titles may or may not prove to be helpful. A study of the history of Europe reveals that within relatively short periods given territories have been fought over, conquered, and annexed, reconquered and disannexed, divided, restored, bartered about in a most bewildering fashion. Seldom, even since the era of political democracy, have the wishes of the people of these territories been consulted; rarely have the interests of the European community of nations as a whole been considered; the changes have occurred under circumstances that make it impossible, oftentimes, for the impartial historian completely to justify the acts of one party and unqualifiedly condemn the deeds of another.

Statesmen and national historians, to be sure, have been fond of "appealing to the verdict of History" in justification of their several

<sup>3</sup> And regarded by French regional geographers like Vidal de la Blache from a geographical standpoint as a part of Lorraine. See Vidal de la Blache, *La France de l'Est, passim*.

national claims. Dates have been fixed and periods chosen best calculated to support national contentions. The German historian emphasizes the ravages of Louis XIV, the unjustified conquests of Napoleon, and—justifies "1870"; the French writer dwells upon the Prussian "robberies" of 1815 and 1870, leaving Louis Quatorze and the Emperor to sleep in peace—each one has a national thesis to sustain, a national cause to support.

Nevertheless in the study of a territorial controversy and the search for a workable formula it may be quite unwise to ignore "History," good or bad. If the patient searcher for truth cannot in a particular instance strike an historical balance with assurance; if he cannot rely altogether and always upon the ability of historians and others who write histories to shake off national prepossessions and prejudices; and if, therefore, he is hesitant about historical claims, he must still remember that the common man may labor under no such handicaps and may be restrained by no such inhibitions. Unauthenticated traditions, legends, myths may have as much, and oftentimes more, power to fan the fires of nationalism, lead to mass conviction, and result in mass action as indubitable historical truths. As long as this is true one must take it into account, weighing popular beliefs along with other factors in the attempt to reach possible solutions for international problems.

Foreign policies have not infrequently been formulated and international arrangements concluded without an adequate comprehension on the part of statesmen of the importance today of shaping political adjustments and harmonizing political compromises with certain physical and social facts—mountains, plains, rivers, coal, iron, men. Underground resources, economic needs, commercial affiliations have a significance for peoples and states today much greater than at any time in the past. At the same time the existence of the phenomenon of nationalism is a stubborn fact apparently blocking the road to purely economic solutions of international problems.

The determination of the political destiny of a particular region and people, then, can scarcely be reached short of a physical and social survey of the territory which shall take account of its location, its economic character, the temper and affinities of its population, and their economic as well as their political and cultural relations with the rest of the world. If it were possible to isolate such a region and study it as if it were an economically self-sufficient unit the problem

would be simplified, but the economic as well as the cultural and political interdependence of peoples is in this day a fact as unescapable as, and perhaps more decisive in its ultimate effects than, the fact of nationalism itself.

The Saar Territory, as defined in the Treaty of Versailles and as actually traced on the spot by a boundary commission,<sup>4</sup> is an artificial creation corresponding to no political or administrative unit or division that had ever existed in the past. It was formed out of portions of the territories of two German states, Prussia and Bavaria, and its boundaries were so drawn as to give it, as far as possible, an economic unity.<sup>5</sup> Thus not only the Saar Valley in large part but also a region extending north beyond St. Wendel and east to the town of Homburg was included.<sup>6</sup> On the west and south the Saar is bounded by Lorraine, to the north it faces Rhenish Prussia, from which it was for the most part carved, and to the east lies the Bavarian Palatinate, a small portion of which was included in it. Altogether it is smaller than Rhode Island, having an area of 1880.69 square kilometers (723 square miles).<sup>7</sup>

The importance of the Saar obviously does not arise from its size. Its significance in international polities is derived from its possession of valuable mineral resources and its location, as we shall see. Prior to the Great War it was the third most important coal producing district in Germany, having a total output in 1913 of between 17 and 18 million tons.<sup>8</sup> On the other hand, neighboring France produced but 41 million tons of coal in 1913.<sup>9</sup> It has been estimated that the coal

<sup>4</sup> Treaty of Versailles, Sec. IV, art. 48: "A Commission composed of five members, one appointed by France, one by Germany, and three by the Council of the League of Nations, which will select nationals of other Powers, will be constituted within fifteen days from the coming into force of the present treaty, to trace on the spot the frontier line described above." Curiously enough this Commission has apparently been frequently confused with the later *Governing Commission*. See G. P. Gooch, *History of Modern Europe*, 682; C. J. Hayes, *A Brief History of the Great War*, 381.

<sup>5</sup> Temperley, *op. cit.*, II, 176. Also Haskins and Lord, *Some Problems of the Peace Conference*, 146-147.

<sup>6</sup> M. I. Newbegin, *Aftermath: A Geographic Study of the Peace Terms*, 16.

<sup>7</sup> Fifteenth Period Rept. Gov. Com. in *L. N. O. J.*, 4th year, no. 12, 1558.

<sup>8</sup> British Foreign Office (Historical Section). *Peace Handbooks*, VI, no. 31, on *Lorraine and Saar Minefields*, 25. It is to be noted, however, that if the Lorraine portion of the Saar field which is today a part of France be excluded, as it is from the present "Saar Territory," the production would total somewhat over 13 million tons. See G. S. Rice, in *Journal of the Franklin Institute*, CLXXXIX (1920), 768.

<sup>9</sup> *Peace Handbooks*, VI, no. 31, 25.

reserves of the Saar total 16,500,000,000 tons.<sup>10</sup> This is possibly greater than the entire reserves of France.<sup>11</sup> The mines themselves may be divided into three principal groups, the first one situated in the Valley of the Saar from Saarlouis to just above Saarbrucken, the second around Neunkirchen, the third in the region of St. Ingbert.<sup>12</sup> They employed in 1913 about 70,000 workers.<sup>13</sup>

Although the Saar has practically no iron ore it is only about thirty miles from the iron mines of Lorraine and as a result of the short haul to the coal district of the Saar, cokeries have been established and great iron and steel works have grown up.<sup>14</sup> These metal works and other large factories employ about 60,000 people, making a total of about 130,000 persons employed in the mines and in industries closely connected with and to a great extent dependent upon them.<sup>15</sup> There are other industries of considerable importance. The glass industry, for example, ranks next to metallurgy, employing in 1913 five thousand workers. The ceramic industry (pottery, porcelain, terra cotta, etc.) takes third place, employing about 3000 workers. Other minor industries, employing altogether several thousand persons are the chemical industry, explosives factories, paper mills, etc.<sup>16</sup>

Prior to the war the Saar was closely linked in an economic sense with the rest of Germany. For food products, the supply of which within the Saar was small, it was dependent almost altogether upon other sections of Germany.<sup>17</sup> In other commodities, too, the commercial relations of the Saar were for the most part within the empire. Much the greater part of the coal, for example, remained within the Saar or was sold in other parts of Germany.<sup>18</sup> The same was true of

<sup>10</sup> A. H. Brooks, "Sarre District," U. S. Geol. Surv., *Bull.* 703, 73.

<sup>11</sup> Haskins and Lord, *op. cit.*, 141.

<sup>12</sup> A. Tardieu, *The Truth about the Treaty*, 255.

<sup>13</sup> Brooks, *op. cit.*, 76.

<sup>14</sup> *Ibid.*, 72. In general, where economic considerations prevail, iron will be brought to coal, for it takes several tons of coal to smelt one ton of iron. See I. Bowman, *The New World*, 89.

<sup>15</sup> Sixth Period Rept. Gov. Com., *L. N. O. J.*, 2d year, no. 2, 200.

<sup>16</sup> J. Priou, *Le Territoire de la Sarre*, (ed. 2; 1923), 127-129.

<sup>17</sup> Second Period Rept. Gov. Com., *L. N. O. J.*, 1st year, no. 4, 91. Priou, *op. cit.*, 149. It has been estimated that the entire produce raised in the Saar Territory would not feed the inhabitants for more than 40 days (*Revue Politique et Lit.*, May 19, 1923, 334). See also in this connection Robert Capot-Rey, "L'Agriculture dans le Territoire de la Sarre," *Ann. de Géographie*, XXXII, 117.

<sup>18</sup> See Priou, *op. cit.*, 102-103, for table giving figures concerning domestic consumption and exportation of Saar coal for 1913.

the output of the Saar factories.<sup>19</sup> Indeed according to figures of Priou the total value of both exports to and imports from other sections of Germany as late as the first quarter of 1922 was greater than was the value of the commerce of the Saar with France.<sup>20</sup>

The Saar Territory, being predominantly an industrial region, supports a much greater population than would be possible were it mainly agricultural. According to the census of 1922 it had 713,105 inhabitants.<sup>21</sup> The population density varies, being greatest in the coal basin of Saarbrucken.<sup>22</sup> Taking the territory as a whole it has a population density of about 987 inhabitants to the square mile, which is greater than that of any of our most thickly populated states.<sup>23</sup>

The people of the Saar are, with few exceptions, German and for the most part natives of the region.<sup>24</sup> According to the census taken in 1922 there were 511,810 recorded as Catholics and 194,229 as Protestants.<sup>25</sup> Politically, as might be expected in view of the religious affiliations of the majority of the people, the Center (Clerical) party claims the allegiance of the greatest number of the inhabitants.<sup>26</sup>

The Saar region forms part of that "debated ground" lying west of the Rhine between Switzerland and the North Sea over which Germans and Frenchmen have at one time or another contested for mastery since the partition of Mersen in 870, when it was united to the German empire.<sup>27</sup> During the middle ages the Germans held their ground but

<sup>19</sup> See "Les Industries du bassin de la Sarre" in *L'Illustration Economique et Financière*—special number on the Saar Territory and Luxemburg, supp. to issue of Aug. 20, 1921, 27.

<sup>20</sup> *Op. cit.*, 147–148. The economic provisions of the Saar section of the Treaty were designed and have tended to give the Saar a new economic orientation toward France.

<sup>21</sup> Fifteenth Period Rept. Gov. Com., *L. N. O. J.*, 4th year, no. 12, 1558.

<sup>22</sup> L. Gallois, "La Repartition de la Population dans le Bassin de la Sarre et les Regions Environnantes" in *Ann. de Geog.*, XXVIII (1919), 282.

<sup>23</sup> Compare, for example, with Rhode Island, the most densely populated state of the Union, which, according to census of 1920, had 566.4 inhabitants to the square mile (*World Almanac*, 1923, 323).

<sup>24</sup> Haskins and Lord, *op. cit.*, 140. See also L. Dominian, "Linguistic Areas in Europe; their Boundaries and Political Significance," *Bull. Am. Geog. Soc.*, XLVII (June 1915), 409–410.

<sup>25</sup> Fifteenth Period Rept. Gov. Com., *L. N. O. J.*, 4th year, no. 12, 1558.

<sup>26</sup> Twelfth Period Rept. Gov. Com., *L. N. O. J.*, 3d year, no. 8, 769.

<sup>27</sup> Haskins and Lord, *op. cit.*, 77, 119. There is much truth, however, in the contention of Professor Schewill that prior to the sixteenth century the Rhineland was undisputed territory: "Just as France during the earlier, the medieval centuries was chiefly engaged with her neighbor across the channel, so Germany was involved with her neighbor across the Alps, with Italy. France prevailingly fronted north and Germany south, and their lines of action did not meet . . . generally speaking, the relations of the two states were fairly amicable." See "The Fight for the Rhineland. An Historical Review," *The World Tomorrow* (April 1924), 108.

with the growth of a strong and unified French state, coinciding with the crumbling of the empire, the French pressed forward from conquest to conquest.<sup>28</sup> Thus in 1552 Henry II of France, in alliance with Maurice of Saxony against the Emperor Charles V, invaded Germany and seized the bishoprics of Metz, Toul, and Verdun.<sup>29</sup> Although none of these acquisitions comprised any part of the Saar it must be noted that Saarbrucken, at present the chief city of the Saar Territory, was at the time a fief of the bishopric of Metz.<sup>30</sup>

The title of the French king to the Three Bishoprics was confirmed by the Emperor in 1648 in the peace of Westphalia, France securing them in perpetuity and "in full sovereignty."<sup>31</sup> Louis XIV, however, anxious to extend his jurisdiction over additional territories that were at the time or "ever had been" dependencies of his new possessions, decided in 1679 to set up duly subservient French courts (*Chambres de Réunion*) at Metz and other places and have them investigate and determine his title to the desired territories.<sup>32</sup> This early type of peaceful penetration, described by Bryce as a "pleasant euphemism for robbery in time of peace,"<sup>33</sup> was highly successful. Indeed so expeditious was the Metz Chambre in adjudging Saarbrucken and other "dependencies" to France that the grand monarch was constrained to write to his judges, advising them, in substance, that there was no hurry, and that it would make a better impression on Europe if they were to reach their decisions after more deliberation.<sup>34</sup>

In the year in which the Chambres were meeting (1680) Louis, in order to assure the sanction of force to his ambitions in the Saar, built a fortress and founded the town of Saarlouis.<sup>35</sup> This town, which remained continuously in French hands until 1815, became the center of French influence in the Saar and as the French like to recall, was the birthplace of Marshal Ney.<sup>36</sup>

<sup>28</sup> Haskins and Lord, *op. cit.*, 120.

<sup>29</sup> F. A. Schevill, *Political History of Modern Europe* (1907 ed.), 83.

<sup>30</sup> H. Oneken, "Historische Beleuchtung der französischen Ansprüche auf das Saarbecken," *Das Saargebiet unter der Herrschaft des Waffenstillstandsabkommens und des Vertrags von Versailles*, 16. Hereinafter cited as "German White Book."

<sup>31</sup> James Bryce, *The Holy Roman Empire* (1919 ed.), 393.

<sup>32</sup> E. F. Henderson, *A Short History of Germany*, II, 55.

<sup>33</sup> Bryce, *op. cit.*, 398-399.

<sup>34</sup> E. Lavisse, *Histoire de France*, VII<sup>2</sup>, 353.

<sup>35</sup> Vidal de la Blache, *La France de l'Est*, 216. Also Haskins and Lord, *op. cit.*, 133.

<sup>36</sup> Vidal de la Blache, *op. cit.*, 83.

In the course of the next century the French acquired the duchy of Lorraine (1766)<sup>37</sup> and thus added to their territory north and east of Saarlouis, although Saarbrucken, to the south, had passed from France, in 1697, at the peace of Nymwegen.<sup>38</sup> It was not until the time of the French Revolution, however, that the entire region of the Saar was added to France.<sup>39</sup> Part of it was lost again by the terms of the first Treaty of Paris in 1814 which in general re-established French boundaries as they had been in 1792.<sup>40</sup>

If the decision of 1814 had been adhered to France would have retained the larger part of the coal area of the Saar,<sup>41</sup> but Napoleon's ill-fated attempt to turn the scales of battle in favor of France after his return from Elba meant a new treaty in 1815 in which France lost Saarbrucken, Saarlouis and, indeed, the greater part of the Saar Valley.<sup>42</sup> Three-fourths of the coal deposits were beyond the boundary of 1815 and the remaining fourth was the least productive.<sup>43</sup>

At the outbreak of the war of 1870, when victory over Prussia was fully expected in French circles, many Frenchmen looked forward to the re-acquisition of the Saar and its reconstitution as a department of France.<sup>44</sup> The war was to result in the still greater loss, however, of Alsace and part of Lorraine to victorious Prussia, and French hopes were for the moment abandoned. When the Great War came, however, those hopes were revived and when the struggle was over the battle for the Saar was waged at the making of the peace.

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<sup>37</sup> E. A. Freeman, *The Historical Geography of Europe* (ed. 3), 353.

<sup>38</sup> Haskins and Lord, *op. cit.*, 133; also Oncken, *op. cit.*, 15-16.

<sup>39</sup> Haskins and Lord, *op. cit.*, 134.

<sup>40</sup> *Ibid.* In the Saar region it did not differ from the frontier of 1789.

<sup>41</sup> About two-thirds of the coal mined lay between the 1814 and 1815 boundary, according to Dr. Haskins (House and Seymour, ed., *What Really Happened at Paris*, 56).

<sup>42</sup> *Ibid.*, 135.

<sup>43</sup> Peace Handbooks, VI, no. 31, 4.

<sup>44</sup> J. Priou, *op. cit.*, 22.

## CHAPTER II

## FRENCH ASPIRATIONS AND THE SAAR COMPROMISE

It is safe to say that few Frenchmen on the eve of the Great War ever thought of any part of the Saar as French territory to be redeemed from a despoiler.<sup>1</sup> After the conflict had started, however, it was perhaps inevitable that old memories should awaken and ancient ambitions revive. At any rate as early as 1916 a member of the French Chamber of Deputies, anticipating the end of the war, published a book which he hoped might be of some service to the French negotiators at the peace table.<sup>2</sup> In it he traced the sources of Germany's power to her abundance of coal and iron, pointed out the weakening effect on France of the loss of the Saar coal in 1815 and the further loss of part of the Lorraine iron in 1871, and argued for the "natural frontier" of the Rhine (which would include the Saar) as a boundary at once "defensive and profitable" for France.<sup>3</sup>

In 1917 another writer recalled that the Saar was an old French territory taken from France in 1815, asserted that it was a natural annex of Alsace-Lorraine, and pointed out that as most of the mines of the Saar were state-owned their return to France would present no difficulty.<sup>4</sup> The acquisition of the Saar coal basin was held by still another Frenchman writing in 1917, to be a proper act of restitution on the ground that it was a territory wrested from France by force and contrary to the wishes of the population at the time.<sup>5</sup> In the following year Louis Madelin wrote a detailed historical account of the Rhine designed to prove that France should have the Rhine River for her eastern boundary, and asserted that when in 1914 Prussia indulged in

<sup>1</sup> Aulard, the French historian, writing in 1919, was troubled and, as he said, "scandalized a little, as a historian and as a Frenchman" because French newspapers in describing the entry of the French troops into Landau and Saarlouis, spoke of them as *German* cities. (*Revue de Paris*, XXVI, 295.)

<sup>2</sup> F. Engerand, *L'Allemagne et le Fer. Les Frontières Lorraines et la Force Allemande*, Preface, x. The author was a member of the Chamber of Deputies' Committee on Metallurgy, at the end of the war.

<sup>3</sup> *Ibid.*, Preface, viii and *passim*.

<sup>4</sup> L. de Launay (membre de l'Institut), *France-Allemagne*, 181.

<sup>5</sup> A. Macaigne, *Notre France d'après Guerre*, 42.

tearing up treaties she tore up those of 1814 and 1815 as well as that of 1871 and that therefore there were no treaty obstacles to a realization of the Rhine boundary.<sup>6</sup>

That these views were not held exclusively by a few individuals without official responsibility but were shared by the French government as early as February 1917 is sufficiently attested by certain secret conversations and correspondence ending in an understanding between the French and Russian governments in March, 1917.<sup>7</sup> In this connection the following extract from a note of February 14 from the Russian Minister of Foreign Affairs to the French Ambassador at Petrograd<sup>8</sup> is explicit:

In your note of to-day's date your Excellency was good enough to inform the Imperial Government that the Government of the Republic was contemplating the inclusion in the terms of peace to be offered to Germany the following demands and guarantees of a territorial nature:

1. Alsace-Lorraine to be restored to France.

2. The frontiers are to be extended at least up to the limits of the former Principality of Lorraine, and are to be drawn up at the discretion of the French Government so as to provide for the strategical needs and for the inclusion in French territory of the entire iron district of Lorraine and of the entire coal district of the Saar Valley.

In the same note the government of the French Republic was assured of the support of the Russian government toward the realization of these objectives, and finally on March 11, 1917, the French government reciprocated by recognizing Russia's aspiration with respect to Constantinople and the Straits, and her desire to be granted "complete liberty in establishing her western frontiers."

In their public declaration of war aims none of the European Powers showed a disposition to do more than indulge for the most part in vague generalizations. Thus neither in the Allied declarations of December 21, 1916, and January 10, 1917, nor in the French Parliamentary resolution of June, 1917, was the acquisition of the Saar mentioned as a war aim of France.<sup>9</sup> Indeed on December 27, 1917,

<sup>6</sup> "Le Rhin français," *Révue des Deux Mondes*, XLVIII, 522 and *passim*. See also for views similar to those of the writers quoted, General Maitrot's *La Paix qu'il faut à la France*, 104-112.

<sup>7</sup> See Baker, *op. cit.*, I, 56-58. This correspondence—part of the so-called "secret treaties"—was discovered by the Russian Soviet Government in the Russian archives and was made public in November, 1917. It is today accepted as authentic.

<sup>8</sup> M. Doumergue, chosen President of the French Republic in 1924.

<sup>9</sup> This silence "did not . . . render the task of the French delegation any easier," according to Tardieu, when at the Peace Conference it tried to obtain the frontier of 1814 (*op. cit.*, 277).

when M. Pichon, Minister of Foreign Affairs, replied in the Chamber of Deputies to an attack by the Socialists in which he was interrogated concerning the secret treaties and was asked to state the war aims of the government, he contented himself, if not his inquisitors, with a general denial that the French government cherished any desires for foreign territories.<sup>10</sup> Territories which had been torn from France by force, however, should be returned and, consequently, the "réintégration" of Alsace-Lorraine should be demanded.

On January 9, 1918, President Wilson formulated a program in his Fourteen Points address which was later accepted by the Allied Powers, including France, as embodying their aims in the struggle with the Central Powers.<sup>11</sup> The only reference to the eastern frontier of France was contained in the eighth point which called for the righting of "the wrong done to France by Prussia in 1871 in the matter of Alsace-Lorraine."<sup>12</sup> The secret treaties were still disturbing some Englishmen, however, and in May, 1918, the question was raised in the House of Commons, as to whether the frontier line of 1814 was among the war aims of the Allies.<sup>13</sup> Mr. Balfour, Foreign Secretary, arose and made a categorical denial saying at the same time that the secret Franco-Russian conversations were not made known to the British government until long after they had taken place<sup>14</sup> and that they had no international bearing. He then gave it as his opinion that the 1814 line never was "a very fixed or solid part of the foreign policy for any length of time of any French government." The French government by its silence at this time apparently acquiesced in the Balfour statement.

In November, 1918, when the Fourteen Points of President Wilson were formally accepted by the Allies as the basis for the conclusion of

<sup>10</sup> *Journal Officiel—Débates Parlementaires—Chambre*—1917, II, 3613–3614, 3628. Of course those Frenchmen who desired the acquisition of the Saar did not regard it as foreign territory; rather was it French territory to be redeemed from the despoiler.

<sup>11</sup> Temperley, *op. cit.*, II, 249; also Baker, *op. cit.*, I, 176.

<sup>12</sup> Baker, *op. cit.*, III, 42–45, for the Fourteen Points.

<sup>13</sup> *London Times*, May 17, 1918.

<sup>14</sup> Apparently on July 2, 1917, when M. Cambon, the French ambassador at London, showed Mr. Balfour a memorandum date Jan. 12, 1917, which he said the French premier, M. Briand, had sent him for his guidance. It said in part: "It must be understood that Alsace and Lorraine must be restored to us not in the mutilated condition in which they were left by the Treaty of 1815, but with the frontiers as they existed in 1790. We shall thus have the geographic and mineral basin of the Saar, the possession of which is essential to our industries. . . ." (Papers concerning negotiations for an Anglo-French Pact, Cmd. 2169 (1924), nos 2, 3, 6.)

peace with the Central Powers, point number eight still stood without any official interpretation or reservation being made by France with respect to it.<sup>15</sup> The French attitude at the Peace Conference, however, was foreshadowed on December 29, 1918, in the Chamber of Deputies in the remarks of Franklin Bouillon, President of the Committee on Foreign Affairs of the Chamber. He said in substance that Alsace-Lorraine in 1870 and the Saar constituted one question; that the taking of the Saar in 1815 by Prussia was a theft just as the taking of Alsace-Lorraine in 1870 was a theft; that the *date* was not important. If it were suggested that 1815 was far in the past and that France had lost her rights, by prescription, yet it was agreed on all sides that the wrong done to Poland by the treaties of 1772 should be repaired. Then why should the wrong done to France in 1815 not be righted?<sup>16</sup>

The secret agreement of the French government with Russia concerning the Saar is important as indicating official French aspirations in that region, but it was, of course, not used later at the Peace Conference as the basis for establishing the French claim to the Saar. In the first place the government of the Tsar fell shortly after it was made, the Bolsheviks made a separate peace with Germany, and Russia was not represented at the Peace Conference. In the second place the Balfour declaration made it clear that the British government did not consider itself under any obligation as a result of the agreement; and finally, President Wilson refused to recognize the validity of any of the secret agreements as far as the United States was concerned.<sup>17</sup> It is perhaps not surprising, then, that M. Tardieu, though publishing other secret documents pertaining to the Saar, in his illuminating book on the Treaty,<sup>18</sup> does not mention the secret arrangement of 1917 with Russia.

This French objective had in the meantime not changed, however, nor the will to achieve it. The statements of the Chairman of the

<sup>15</sup> Baker, *op. cit.*, I, 177. See International Conciliation no. 133 for the official correspondence leading up to the conclusion of the armistice. The Allies declared their "willingness to make peace with the Government of Germany on the terms of peace laid down in the President's address to Congress of January, 1918, and the principles of settlement enunciated in his subsequent addresses." p. 679. They made but two reservations neither of which concerned the Saar issue.

<sup>16</sup> *Journal Officiel—Débates Parl.—Chambre—1918*, II, 3711.

<sup>17</sup> Baker, II, 163.

<sup>18</sup> *The Truth about the Treaty*, chap. 8.

Committee of Foreign Affairs of the Chamber shortly after the armistice have already been noted.<sup>19</sup> Immediately after the armistice French troops took possession of the Saar.<sup>20</sup> According to General Hirschauer, French engineers at the same time were detailed to take charge of the mines and were given "la mission encore tacite de se familiariser avec les fosses, et de préparer sans à-coups la transmission de pouvoirs que nous étions en droit d'espérer des stipulations d'un traité équitable."<sup>21</sup>

It was thus to be expected that doughty Clemenceau and clever Tardieu, supported by their small army of historical and economic experts, would conduct a diplomatic campaign for the Saar when the Peace Conference met. President Wilson, who was inclined to scrutinize proposals involving territorial changes in the light of the principles accepted by the Allies as the basis of the peace, offered stubborn resistance to the French offensive. Lloyd George, less rigid where British interests were not involved, favored concessions. The Italians apparently were not interested in the question, being preoccupied with pressing their own claims.<sup>22</sup> Thus it was to be eventually decided by the three members of the Big Four: Clemenceau, Lloyd George, and Wilson.

When the Peace Conference met, the French engaged the various delegations in individual interviews in order to sound them out on the question.<sup>23</sup> After this preliminary reconnaissance they mapped out their plan of campaign, and began the attack, in March, 1919.<sup>24</sup> M. Tardieu prepared a memorandum based upon the studies of the question made by his colleagues of the Comité d'Études and distributed it to the heads of the delegations at the Conference.<sup>25</sup> This was followed shortly by a verbal presentation of the French case to the Council of Four.

The French felt they were entitled to the entire industrial region of the Saar.<sup>26</sup> They argued for the frontier of 1814 on the ground that the region between the line of 1815 and that of 1814 had been

<sup>19</sup> *Supra*, p. 124.      <sup>20</sup> Baker, I, 99.

<sup>21</sup> *Revue des Deux Mondes* (Aug. 1, 1922), 635-636.

<sup>22</sup> Baker, *op. cit.*, II, 150. Cf. House and Seymour, *What Really Happened at Paris*, 59.

<sup>23</sup> Mermeix (Terrail, Gabriel), *Fragments d'Histoire 1914-19: Le Combat des Trois*, 201.

<sup>24</sup> Tardieu, *op. cit.*, 262.

<sup>25</sup> See Tardieu, *op. cit.*, 251-262 for text of memorandum.

<sup>26</sup> What follows is based on the memorandum published by Tardieu.

taken from France by force; that the inhabitants by petitions and in other ways at the time and since had expressed an affection for France and a desire to be reunited to her; that in spite of the systematic colonization of the country by Prussians and the efforts of Prussia to stifle French sentiment, a passionate attachment to France had survived among the middle class and peasant element.<sup>27</sup> As a matter of *restitution*, then, the French demanded as a minimum the frontier of 1814.

Under the head of *reparation*, however, they put forth an additional claim. They called attention to the fact that part of the mining and industrial region of the Saar lay beyond the frontier of 1814. The political and economic severance of the region would be unwise for it possessed an economic unity. Why should France not have the entire mining region? Her own mines had been deliberately flooded and in other ways made unproductive by the Germans.<sup>28</sup> It would be a number of years before they could again begin to produce. France had had to import about 23,000,000 tons of coal before the war. If the Saar mines were not given her she would now be compelled to import 50,000,000 tons a year.<sup>29</sup>

Germany, on the other hand, was rich in coal and her economic equilibrium would not be disturbed by the loss of the Saar coal. Here, then, was a proper means for securing not only *special reparation* in kind but something on the *general reparation* account which Germany would have to settle with France because of other devastations committed.<sup>30</sup> The French did not demand outright annexation of this part of the Saar region, but apparently envisaged a semi-independent state linked to France, however, by a customs union.<sup>31</sup>

On the morning of March 28, according to Tardieu, he and M. Loucheur presented the French case verbally to the Council of Four. Three days before, Lloyd George had circulated a memorandum

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<sup>27</sup> It was even asserted by Clemenceau that there were 150,000 Frenchmen in the territory, a minority that must be protected against Prussianism (Tardieu, *op. cit.*, 265).

<sup>28</sup> These mines produced about 20,000,000 tons annually. See G. C. Rice, *Journal of the Franklin Institute*, CLXXXIX, 768.

<sup>29</sup> This is taking into account not only the deficit due to the damage to the French mines, but also the added needs of Alsace and Lorraine.

<sup>30</sup> Apparently this was in anticipation of the objection that the Saar mines were worth much more than the total loss suffered by France on account of the destruction of her mines.

<sup>31</sup> Mermeix, *op. cit.*, 201. See also Tardieu, 262.

entitled "Some Considerations for the Peace Conference before they finally draft their Terms."<sup>32</sup> In this memorandum the British Prime Minister made the following recommendation with reference to the Saar:

Germany to cede to France the 1814 frontier, or in the alternative, in order to compensate France for the destruction of her coal fields, the present Alsace-Lorraine frontier with the use of the coal mines in the Saar Valley for a period of 10 years. Germany to undertake, after the expiration of 10 years, to put no obstacle on the export of the produce of these coal mines to France.

At a meeting of the Council of Four, however, Lloyd George expressed a fear that to give France the frontier of 1814 would 'create a new Alsace-Lorraine.'<sup>33</sup> He pleased the French, on the other hand, by favoring their ownership of the mines, and admitting that "an autonomous organization ought to be established for the entire coal basin."<sup>34</sup>

Mr. Keynes has informed us that President Wilson was "capable of digging his toes in and refusing to budge"<sup>35</sup> when a principle was at stake. The President now rejected the French proposals, pointing out that France had never claimed the frontier of 1814 "in any public document"<sup>36</sup> and calling attention to the fact that the eighth of the Fourteen Points, which France had accepted, referred to the wrong she had suffered in 1871, thus excluding consideration of her losses in 1815.<sup>37</sup> He thought the historical argument a dangerous one for France to use—the Germans had used it in 1871 in justification for their annexation of Alsace-Lorraine. On the economic side the frontier of 1814 was unsatisfactory for it would cut the coal basin in two and thus ruin it. Under these circumstances a cession of territory without an immediate plebiscite could not be admitted.<sup>38</sup> The most the President would admit was the right of France to exploit the mines for a specified period by way of reparation for the damage to her own mines.<sup>39</sup>

<sup>32</sup> White Paper, Cmd. 1614 (1922).      <sup>33</sup> Tardieu, 263.

<sup>34</sup> E. T. Raymond in his biography of Lloyd George, p. 286, makes the interesting statement that capital and labor in the coal fields of England and South Wales were "united in opposition to the proposal that France, instead of importing coal at fancy prices, should be given in the Saar mines some compensation for the loss of her own collieries."

<sup>35</sup> J. M. Keynes, *The Economic Consequences of the Peace*, 44.

<sup>36</sup> Tardieu, 263.

<sup>37</sup> Baker, II, 72.

<sup>38</sup> Tardieu, 263.

<sup>39</sup> Baker, II, 72-73.

In the course of the lively discussion that followed Clemenceau at first allowed the French experts to take issue with President Wilson. Finally, however, he intervened with some observations that constitute an important contribution to the French psychology:

I have a serious reservation to make. You eliminate sentiment and memory. The world is not guided by principles alone . . . economic interests are not everything. The history of the United States is glorious, but brief. One hundred and twenty years is a very long period for you; for us it is a short one. Our conception of history cannot be quite the same as yours. . . . The point at issue is not material reparation only; the need for moral reparation is no less great.

The session ended without an agreement being reached, and the French having no support for the frontier of 1814 decided in private conference to give it up, but to demand ownership of the mines, a special political administration for the entire territory in order that they would not be hindered in their exploitation of the mines, and "safeguards for the rights of the inhabitants." They therefore proposed that France should have a mandate from the League of Nations for fifteen years under which she would have the right to occupy the territory with her military forces, and to veto acts of the local administration.<sup>40</sup> During this period those inhabitants desiring French nationality could have it conferred upon them individually, and "when in each of the principal administrative sections the majority of the electors shall have French nationality, or rather when the district council shall ask for annexation to France, this annexation will occur *de jure* upon its acceptance by the League of Nations."<sup>41</sup>

No demand for reunion with Germany would be considered, according to this plan, until after fifteen years. Then those inhabitants who had not already expressed a choice were to be given an opportunity to do so. The fifteen-year period was "fixed precisely with a view to allowing events to shape themselves and the population to decide justly and freely as to its sovereignty."

The French fully realized that the paramount interest of the American President was the creation of a League of Nations.<sup>42</sup> Doubtless they had this in mind in suggesting a League mandate for the Saar. He had also expressed himself repeatedly against the arbitrary

<sup>40</sup> Tardieu, 264, 266, 267.

<sup>41</sup> Tardieu, 268.

<sup>42</sup> Mermeix, *op. cit.*, 203. See also Baker, II, 65.

transfer of people from one sovereignty to another.<sup>43</sup> The suggestion for a plebiscite after fifteen years was probably calculated to appease him at this point.<sup>44</sup>

In the meantime the President's own experts were not in agreement with him. Professor Haskins wrote him on March 30 that as a matter of justice the French should have the frontier of 1814, and that a "minimum of French political authority" was essential in the district beyond that frontier in order that France should be assured the necessary coal. President Wilson would give way but at one point, however. He accepted (March 31) the proposal for the transfer of the mines and agreed that adequate economic facilities for their exploitation should be guaranteed to France. But to the political proposals he expressed himself to his experts as follows:<sup>45</sup>

I have no right to hand over to her [France] people who do not want to go to her, or to give them a special government, even if it is better for them, if they do not want it.

On April 2 the question was referred to a special committee of three: Tardieu (France), Headlam-Morley (Great Britain), and Haskins (United States).<sup>46</sup> Three days later the committee, at the solicitation of Tardieu, made a declaration at the end of their report to the effect that unless a *special political and administrative régime* were established in the Saar the social and economic clauses the committee had drawn up for the Saar could not be applied without "serious difficulties and conflicts. . . ."<sup>47</sup>

The "special administrative and political régime" which the French had in mind was either an independent State of the Saar attached to France by a Customs Union or the League mandate already mentioned. Lloyd George was apparently willing to support either proposal but both were distasteful to President Wilson.<sup>48</sup> Instead he proposed an arbitration commission by which differences between the French mining administration and the German government might be adjusted.<sup>49</sup> In the meantime in apparent despair of securing the kind of peace he felt obligated to insist upon—he was meeting with French opposition all along the line and an *impasse* had developed—he

<sup>43</sup> See addresses of Jan. 22, 1917, Feb. 11, 1918, July 4, 1918, as well as other war addresses of the President.

<sup>44</sup> Mermeix, 203.

<sup>46</sup> House and Seymour, *op. cit.*, 59.

<sup>45</sup> Baker, II, 73-74.

<sup>47</sup> Tardieu, 270.

<sup>48</sup> Tardieu, 271. Apparently one plan did not differ materially from the other.

<sup>49</sup> Baker, II, 74.

ordered the *George Washington* to Brest with the evident intention of returning to the United States unless the French gave way.<sup>50</sup>

Under these circumstances M. Clemenceau and his colleagues again took counsel together and decided to take the risk of a break by adhering to their position. On April 9 they distributed another note to the heads of delegations in which they labored to show that an arbitration commission would not prevent conflicts from constantly arising between Germany and France and that it would usher in a "régime of perpetual lawsuits." They therefore insisted that German sovereignty must at least be suspended for a period of fifteen years, and a special political and administrative régime established.

Despite Lloyd George's approval of the French position, however, President Wilson found it unacceptable. In the afternoon of the same day he advanced an alternative plan for the government of the region for fifteen years by an international administrative commission.<sup>51</sup> On being assured that German sovereignty in the territory would be suspended during this period, that the Commission would have full power, and that the inhabitants would no longer be represented in the German Reichstag the French accepted the plan in principle and agreed to leave the details to the committee of three, already mentioned,<sup>52</sup> together with a number of assisting experts. The work of the committee, completed early next day, was accepted by the Council of Four and the struggle was over. Both sides had surrendered some of their original contentions, but in the opinion of Tardieu, the section of the Treaty dealing with the Saar "sets forth . . . the principles which since March 28th France had defended before the Conference."<sup>53</sup>

It was inevitable that the solution should displease the Germans, but it was challenged in other quarters as well. The strongest protest in France came from the Socialists, who condemned the arrangement quite as vehemently in some instances as did the Germans.<sup>54</sup> More weighty were the criticisms of men like Bernard Baruch, one of the American experts at the Conference, and General Jan Smuts.

In a letter to President Wilson on April 9 Baruch argued against the transfer of the coal mines to France, pointing out the dependency of the metallurgical industries of the Saar as well as the gas works

<sup>50</sup> *Ibid.*, II, 57-60.

<sup>52</sup> See p. 129.

<sup>53</sup> Tardieu, 272-276.

<sup>53</sup> Tardieu, 276-277.

<sup>54</sup> See M. Hervé's attack in *La Victoire* of May 31, 1919, quoted in Keynes, *op. cit.*, 84, note; also quotation from *L'Humanité* of April 11, 1919, in Buell's *Contemporary French Politics*, 457-458.

of southern Germany on the coal of the Saar Basin and calling attention to the power France would have, through owning the mines, to injure these industries and generally disturb the economic life of the country.<sup>55</sup> He thought the following economic arrangements would meet the coal needs of France and at the same time avoid the friction and trouble which he felt would result from an actual transfer of mine ownership :

1. Germany should be required to deliver to France seven million tons a year, the amount which France imported annually before the war.

2. Germany should be required to supply to France an amount of coal sufficient to make up the deficit in the normal production of the Lens and Pas de Calais fields during the period of their restoration. The complete restoration of the mines should require not to exceed five years.<sup>56</sup>

3. During the life of the Sarre mines Germany should be required to sell the same amount of coal she has heretofore sold to territories that have not become French, France having the option to receive a percentage of the increased production of the Sarre, which its present demands bear to the total production.

General Smuts wrote both to Lloyd George and to President Wilson criticizing the draft treaty at several points and voicing specific objections to the Saar arrangement.<sup>57</sup> He thought the special administrative régime a "clumsy device" unwarranted in view of French control of the mines, and regarded the provision for a plebiscite at the end of fifteen years as superfluous on account of the undoubted German character of the great majority of the population.

Quite naturally the most extended criticism came from the German delegation. In two preliminary notes to the President of the Peace Conference, M. Clemenceau, the Germans argued that the proposed terms of settlement with respect to the Saar were not in accord with the fundamental principles of peace as agreed upon at the time of the Armistice. Recognizing the justice of the French claim to reparation in kind on account of the destruction of the French mines they took the position that the transfer of the Saar mines was not necessary to insure this, the German government being willing to agree to an arrangement for coal deliveries to France.<sup>58</sup>

<sup>55</sup> See Baker, III, 253-254 for text of letter.

<sup>56</sup> It was stated to me by an American mining authority in February 1925 that the mines had been almost completely rehabilitated and that almost pre-war production was being realized.

<sup>57</sup> Baker, III, 458-468, for texts of these letters.

<sup>58</sup> German White Book, on the Saar, docs. 25, 26, 50-53.

The draft treaty provided that if at the end of fifteen years the plebiscite should be favorable to Germany the latter must buy back the mines in gold within six months, otherwise the territory would go definitively to France.<sup>59</sup> The Germans replied to this by saying that the terms of the treaty were so rigorous that it was unlikely that such an amount in gold could be raised for that purpose even after fifteen years, and that in any event the reparations commission would probably not allow Germany to allocate such an amount for the repurchase.<sup>60</sup>

M. Clemenceau on the 24th of May, speaking for the Allied and Associated Powers, rejected all but one of the German contentions, and emphasized a special reason for the decision with respect to the Saar:<sup>61</sup>

. . . . the Allied and Associated Governments have chosen this particular form of reparation because it was felt that the destruction of the mines in the north of France was an act of such a nature that a definite and exemplary retribution should be exacted; this object would not be attained by the mere supply of a specified or unspecified amount of coal.

On one point, however, a concession was granted. Germany was given the assurance that no obstacles would be interposed to prevent her repurchasing the Saar mines, should the inhabitants eventually decide for German sovereignty, by the addition of the following paragraphs:<sup>62</sup>

The obligation of Germany to make such payment shall be taken into account by the Reparation Commission, and for the purpose of this payment Germany may create a prior charge upon her assets or revenues upon such detailed terms as shall be agreed to by the Reparation Commission.

If, nevertheless, Germany after a period of one year from the date on which the payment becomes due shall not have effected the said payment, the Reparation Commission shall do so in accordance with such instructions as may be given by the League of Nations, and, if necessary, by liquidating that part of the mines which is in question.

On May 29 the Germans presented the case against the Treaty in detail and gave a prominent place to an analysis and criticism of the section dealing with the Saar.<sup>63</sup> As an understanding of the German

<sup>59</sup> Sen. Doc. No. 149, 66 Congress, 1 session, 57.

<sup>60</sup> German White Book, 50-51.      <sup>61</sup> *Ibid.*, 54.

<sup>62</sup> *Ibid.*, 54-55. Cf. Treaty of Versailles, Part III, Sec. IV, art. 50 Annex, par. 36.

<sup>63</sup> International Conciliation, no. 143, 1230-1234, for English text of German comments on Saar. For text in German, see W. Schücking, *Komentar zum Friedensvertrage*, I, 459-462.

point of view at the time, as well as later, is essential to a comprehension of the difficulties that were to attend the new régime of the Saar the main contentions of the Germans must be noted at this point. On historical and ethnical grounds they claimed the Saar district should not be separated from Germany. In a thousand years of history the Saar district had been held by France for but sixty-eight years. In 1918 there were not even one hundred French in the territory.

Cession of the coal mines cannot be justified. The mines in northern France can be restored in at least ten years. The deficit to be supplied by Germany even in the first year reaches, according to French figures, but 20,000,000 tons. The reserves of the French mines have not been diminished as a result of the destruction of the mines. The reserves of the Saar mines exceed 11,000 million tons, enough to last for about 1000 years. Thus to transfer ownership of these mines to France would be to give the latter one hundred fold more than she herself has estimated as the maximum to which she is entitled.

Details of the Saar régime were also criticized: The international government provided for will not be responsible to the people governed. It will have practically unlimited powers. The rights of the inhabitants are not adequately protected by the Treaty, the privileges accorded are excessive. This and much more. In answer to M. Clemenceau's explanation, already noted, that "a definite and exemplary retribution" was sought the Germans made the following reply:

The German Government declines to make any reparation as a form of punishment. And it must decline still more emphatically to shift to certain parts of the population punishment in the form of national sufferings which is intended for the whole of the community.

The final reply of the Allied and Associated Powers to the foregoing "Observations" of the German delegation contained some statements that should be recorded. In his covering letter to the Germans, M. Clemenceau asserted that the interests of the "mixed (complexe) population" were safeguarded in the Treaty.<sup>64</sup> In the formal reply the Allied and Associated Powers answered certain objections that had been raised by the German delegation by pointing out that the international governing commission of the Saar "will be responsible to the League of Nations and not to the French Government."<sup>65</sup>

<sup>64</sup> *International Conciliation*, "Reply of the Allied and Associated Powers to the Observations of the German Delegation on the Conditions of Peace," no. 144, 1347.

<sup>65</sup> *Ibid.*, 1362.

The debate by correspondence ended with the foregoing reply. The Saar provisions were written into the Treaty. The Germans, quite bitter and irreconciled, had to accept them along with the rest of the "Second Treaty of Versailles." They furnish therefore, the starting point for a study of the fifteen-year régime.

Under the arrangement provided for the Saar in section four (Part III) of the Treaty of Versailles, the coal mines and deposits were to become the property of the French State; the Territory, however, was to be governed for a period of fifteen years by an international commission representing the League of Nations.<sup>66</sup> This Commission was to succeed to the powers formerly possessed by the German Empire, Prussia, and Bavaria in the Saar Basin (par. 19). It was, therefore, much more than an administrative commission; it had important legislative and judicial functions also, as will appear.

On the executive and administrative side it had full power to appoint and dismiss officials, to administer and operate railways, canals, and the different public services (par. 19), the "full right of user of all property other than the mines" (par. 22), and the power and duty of providing for the protection abroad of the interests of the inhabitants (par. 21).

The legislative powers of the Commission included the creation of administrative and representative bodies at discretion (par. 19); the power to modify mining legislation in force in the Territory after consultation with the French State; the power in other cases to effect modifications in the laws and regulations in force on November 11, 1918, in the Territory, after consulting the elected representatives of the inhabitants (par. 23); the power to fix the conditions and hours of labor of men, women and children (par. 23); and the sole power of levying taxes and dues (par. 26).<sup>67</sup>

Judicial functions were left to the existing courts, but a civil and criminal court of appeal was to be established by the Governing Commission, and this court was to have original jurisdiction in matters "for which these [existing] courts are not competent" (par. 25). The all-important power of deciding questions concerning the interpretation of the thirty-two paragraphs of the Treaty dealing with the

<sup>66</sup> Treaty of Versailles, Part III, Sec. IV, art. 45; also Annex, pars. 1, 16.

<sup>67</sup> Although the borrowing power is not among the enumerated powers of the Commission, it is, of course, implied. As a matter of fact the Commission began its work on money borrowed from the League of Nations, although the Council of the League made the necessary advance on its own initiative. *L. N. O. J.*, no. 2 (March 1920), 52.

powers of the Commission as well as with the rights and privileges of the French State and the Saar population was lodged with the Commission itself (par. 33).<sup>68</sup>

The Treaty, however, laid down certain important exceptions to some of these powers and included economic and other guaranties and privileges to France which the French representatives felt were essential to the free and unhampered exploitation of the property rights granted to the French State. On the other hand the Americans, especially, were anxious to safeguard the rights and interests of the local population and as a result a number of guaranties in the nature of a bill of rights were included in the Treaty for the protection of the inhabitants of the Saar as against both the Governing Commission and the French State.<sup>69</sup>

The economic guaranties to France were far-reaching. As owner of the coal mines the French State was expressly recognized as having complete liberty not to work as well as to work them.<sup>70</sup> If it desired to transfer the right to work the mines to a third party the Treaty sanctioned it; if it wished to import workmen from outside the Territory for the mines and their accessories it might do so (par. 12);<sup>71</sup> and it was to enjoy complete liberty to determine the distribution and price of the products of the mines and their accessories and subsidiaries (par. 15).<sup>72</sup> It could always require the application of the German mining laws in force at the time of the armistice unless they had been passed solely as war measures (pars. 1, 9, 12).<sup>73</sup> Should the Governing Commission desire to introduce any modification in such laws it must first consult the French State, "unless such modification

<sup>68</sup> It is held by some that paragraph 33 refers to chapter 2 only, but this appears to be a mistaken interpretation.

<sup>69</sup> Cf. House and Seymour, *op. cit.*, 60.

<sup>70</sup> Treaty, Part III, Sec. IV, Annex, par. 1.

<sup>71</sup> The economic power over the inhabitants possessed by the French State in the Saar can be better appreciated when it is recalled that out of a population of approximately 700,000 inhabitants there are more than 70,000 miners and that there are perhaps 30,000 more workers in other industries which are dependent upon the mines.

<sup>72</sup> See pars. 15 and 31 for the limitations on this power.

<sup>73</sup> In rejecting President Wilson's proposal of an arbitration commission to settle disputes between the French mines and the German government, Tardieu at one point suggested: "Let us suppose that Weimar were to pass laws reducing working hours to six for an electric station supplying the mines. How in such cases would the miners be able to work eight hours under the French régime?" (Tardieu, *op. cit.*, 273-274.) The Weimar constituent assembly, then at work on the new German constitution, was preparing a fundamental law for the German people in which the new power of the German worker was to be conspicuously reflected.

results from a general regulation respecting labor adopted by the League of Nations" (par. 23). The Governing Commission was not, as against the French State, to have the power of eminent domain nor indeed might it take any measures that would affect the property rights of France in the mines and other immovable property that might become the property of the French State (par. 11).

Other provisions indicate the great care that was taken to insure France the incidental rights and privileges considered necessary for the most complete and satisfactory exploitation of the mines and the distribution and utilization of their products. The Governing Commission was obligated, through the local railway administration, to provide the equipment and personnel necessary for the transportation of the products of the mines and their accessories, and the employees and workmen of the French State (par. 7). If, in the opinion of the latter, the improvement of any of the railways or waterways in the Saar should become necessary in connection with the transportation of the products of the mines no obstacle was to be placed in the way of such improvement by the Governing Commission (par. 8). Even additional roads, electric lines, and telephone connections might be established by the French State itself, if it considered them necessary for the exploitation of the mines, and its freedom to exploit the new means of transportation and communication was to be subject to no restrictions (par. 8).

Perhaps the most remarkable concessions to France, however, were contained in the provisions that the French State was to have the right to substitute French for German money in making payments, purchases, and contracts in connection with the mines or their accessories and subsidiaries (par. 32); and that the Saar should henceforth be subjected to the régime of the French customs (par. 31).<sup>74</sup>

A right of quite a different character is finally to be noted. The French State might establish, as incidental to the mines, primary or technical schools for its employees and their children and provide for instruction in these schools to be given in the French language and in accordance with French educational ideas (par. 14).

The inhabitants of the Saar were completely severed from Germany politically, losing their right to representation in the Reichstag and the Prussian and Bavarian legislatures (par. 28) and being compelled

<sup>74</sup> A five-year transitional period was provided, however, within which, with certain qualifications, products were to pass to and from Germany free of duty (par. 31).

to look to the Governing Commission as the legal authority for the protection of their rights and interests in the territory (par. 30), and to it likewise for insuring the protection of their interests abroad.<sup>75</sup> Finally, the new government put over them was not responsible to the people of the Saar but to the League of Nations (par. 16). They were given certain political, civil, religious, and economic guaranties, however, designed to afford them protection against arbitrary action on the part of the Governing Commission and France. In certain instances, too, their rights ran as against Germany.

If the Governing Commission at any time should desire to modify the laws in force at the time of the armistice between Germany and the Allied and Associated Powers, it must first consult the elected representatives of the inhabitants (par. 23). The local assemblies of the inhabitants were to be retained "under the control of the Governing Commission" (par. 28) and every inhabitant over twenty years of age was to have the right to vote for representatives to these assemblies (par. 28). It was also provided that the existing nationality of the inhabitants was not to be affected by the treaty stipulations, but the Treaty forbade the placing of obstacles in the way of those desiring to acquire a different nationality (par. 27).

A number of economic guarantees were included. The Governing Commission, though having the power to fix the hours and conditions of labor in the Territory, was required, when doing so, "to take into consideration the wishes expressed by the local labor organizations, as well as the principles adopted by the League of Nations" (par. 23). The rights that the inhabitants had acquired or were acquiring at the time the Treaty of Versailles should come into force in the way of social insurance or pensions, were to be preserved and continued by "Germany and the Government of the Territory of the Saar Basin" (par. 24).

The Governing Commission was required to apply all taxes and dues collected to the needs of the Territory and was forbidden to impose new taxes, except customs, without previously consulting the elected representatives of the inhabitants (par. 26). Net receipts for customs on goods for local consumption must be included in the budget of the Territory (par. 31). Persons desiring to leave the Saar were guaranteed the right to take their movable property and to retain

<sup>75</sup> The Governing Commission was required to insure this protection "by such means and under such conditions as it may deem suitable." It decided to intrust the matter to France. See page 153.

their immovable property or sell it at fair prices as they should elect (par. 29). Recognizing, doubtless, the danger and inexpediency of an immediate and complete economic severance of the Saar from Germany or even the erection of unaccustomed economic barriers between the two, it was provided that no export tax might be imposed on coal and metallurgical products exported from the Saar to Germany, and that likewise German exports for the use of the industries of the Saar were not to be subject to an export tax (par. 31). Natural or manufactured products originating in the Saar were not subject to customs duties in transit over German territory and products coming from Germany were not to be subject to transit charges over the Saar (par. 31). For five years there were to be no import duties on products originating in the Basin and exported to Germany, and for the same period German products imported into the Saar for purposes of local consumption were to be admitted free of duty (par. 31).<sup>76</sup>

The inhabitants were to retain their religious liberties, their schools, and their language (par. 28). The existing civil and criminal courts were also to be maintained (par. 25). Neither compulsory nor voluntary military service was to be allowed, and the construction of fortifications in the Saar was forbidden. It was expressly stated that "only a local gendarmerie for the maintenance of order may be established," the Governing Commission being obligated to see to the protection of persons and property in the Saar (par. 29). Finally, at the end of fifteen years the inhabitants were to be accorded the right to vote "by communes or districts" on the question of their political destiny, the League of Nations rendering its decision after taking into consideration their wishes as expressed at the polls (pars. 34, 35, 36).<sup>77</sup>

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<sup>76</sup> But this provision did not specifically preclude Germany from prohibiting the import of products from the Saar, whatever their origin, and likewise the French assumed a right to exclude the importation of products into the Saar from Germany regardless of their origin. Furthermore, according to the interpretation of par. 31 by the Governing Commission, products which are neither French nor German must pay the duties laid down in the French customs tariff. See Special Rept. Gov. Com., in *L. N. O. J.*, 3d year, no. 3, 211.

<sup>77</sup> See chapter 6 for more extended reference to the plebiscite provisions.

## CHAPTER III

## ESTABLISHMENT AND OPERATION OF THE NEW RÉGIME

When a document comes to be applied the process of elaboration and interpretation starts, and at this point in some degree a government of laws ends and a government of men begins. Doubtless the significance of this process is usually lessened when the same men who originally drew up the document interpret and apply it. In any case, however, actual government, involving more or less administrative discretion, will show variations from paper government.

In the case of the Saar it is to be noted that the authors of the treaty provisions retire from the scene on the completion of their work. Another body—the Council of the League of Nations—takes the stage at this juncture and begins the task of interpreting its powers and responsibilities in the premises. Finally a third body—the Saar Basin Governing Commission—is summoned for the actual business of government and administration, but with the power to interpret the treaty provisions as well.

The new régime for the Saar could not be put into operation until the Treaty of Versailles had come into force and the League of Nations had been organized. Thus it was not until February 13, 1920, that the first formal steps toward the establishment of the new government were taken. On that date M. Caclamanos, the Greek representative on the Council of the League, to whose hands the question had been entrusted, made a report to that body on the Saar Basin.<sup>1</sup> The report was accepted by the Council and is important as marking the first step in the application of this section of the Treaty.

The first recommendation made by M. Caclamanos was that the chairmanship of the Governing Commission to be constituted by the Council should fall to the French member of the Commission.<sup>2</sup> Reviewing the important economic rights granted to France by the Treaty and pointing out the necessity of a close accord between

<sup>1</sup> *L. N. O. J.*, no. 2 (March 1920), 45 ff.

<sup>2</sup> *Ibid.*, 46. The Council concurred by electing the French member to the chairmanship.

France and the Governing Commission as far as the method of application of these rights was concerned, he summed up his argument in the following words:<sup>3</sup>

The welfare of the population of the Saar and the necessity of maintaining order in this region require a close collaboration between the French Government, which by the Treaty controls a very important part of the economic life of the Basin, and the Governing Commission, to which the Council entrusts its administration. This collaboration cannot be better ensured than by the relations which a French Chairman of the Commission would maintain with the French Government, by his knowledge of the details of French administration, which, like every other, is a delicate and complicated mechanism and by the guarantee of a good understanding with France which, as a Frenchman he would naturally possess.

It was proposed that the salary of each member of the Governing Commission should be fixed at 100,000 francs per annum, and that the chairman of the Commission should have an additional allowance of 50,000 francs yearly for the purpose of entertainment.<sup>4</sup> This expense, according to the terms of the Treaty, was to be charged on the local revenues.<sup>5</sup> The Territory was also to bear the expenses incurred "in the execution of the official duties of the Commission and of the members thereof (office accommodation, traveling expenses, wages of staff, telegraphic expenses, etc.)."<sup>6</sup>

Although the rights and duties of the Commission were laid down in the Treaty, it was suggested that the Council should give "certain instructions and suggestions of a general nature for the use of the members of the Commission."<sup>7</sup> These instructions, embodied in an Annex to the resolution offered by M. Caclamanos at the conclusion of his report, were adopted by the Council. They were in general supplementary to the Treaty provisions.

The Treaty, for example, did not take up the question of the procedure which should be followed by the Governing Commission except to state that the decisions of the Commission "shall be taken by a majority."<sup>8</sup> The Council, therefore, directed that the Commission should determine its own rules of procedure, though adding certain directions in the nature of limitations of that power.

<sup>3</sup> *Ibid.* The appointment to the chairmanship was but for one year; nevertheless there was no dissent from the reasoning of M. Caclamanos on this point. The Council adopted his report and the foundation was thus laid for the yearly reappointment of the French member as chairman of the Commission.

<sup>4</sup> *Ibid.*, 48.

<sup>5</sup> Treaty, Part III, Sec. IV, Annex, par. 17.      <sup>6</sup> *L. N. O. J.*, no. 2, 51.

<sup>7</sup> *Ibid.*, 47.

<sup>8</sup> Treaty, Part III, Sec. IV, Annex, par. 19.

Thus the Commission was to meet in permanent session. Important decisions, such as those connected with the interpretation of the provisions of the Treaty, "must not be taken except in the presence of all the members of the Commission." Should the enforced absence of a member of the Commission necessitate the appointment of a substitute "the appointment shall be made by the Council of the League of Nations." The French and Saar members, however, might in case of urgency appoint their own temporary substitutes provided the other members of the Commission were agreed in each case that the absence was justified. The Secretary General of the League was to be informed by telegraph of such an appointment, and he in turn was to inform the Council of the League. The latter was then to determine whether the appointment should be confirmed.

It was of course essential that the Governing Commission, as the representative of the League, should keep the Council informed as to its stewardship, but the Treaty did not expressly require reports from the former to the latter. The Council therefore directed the Commission to report to it, through the Secretary General, "in order to keep the League informed on all questions of interest." The Commission was also required to submit proposals with respect to the form and extent of its reports to the Council.

Forming a separate paragraph in the instructions was the following injunction: "The Governing Commission will have no occupation and no interest except the welfare of the people of the territory of the Saar Basin."

The Council considered it inadvisable to give more detailed instructions to the Governing Commission, and felt that wide powers of control should be left to it. The reasons for this decision were advanced by M. Caclamanos as follows:

(1) The authors of the Treaty admitted that the Governing Commission should have the maximum power of appeal and judgment, and be as closely in touch as possible with affairs and people in an essentially industrial country.

(2) It must be observed that the League of Nations always possesses, as a guarantee that its responsibility shall not be involved against its will, the power of annual appointment, and of replacement of the members of the Commission.

(3) Finally, it must not be forgotten that the League of Nations, which will have so many different responsibilities, should not go too deeply into details; it would run the risk of becoming too material and of compromising the lofty moral authority which it should preserve as the supreme Court of Appeal.

Nevertheless the Council indicated that after experience had been gained in the working of the new régime it reserved the right to issue additional instructions to the Governing Commission.

Four of the five members of the Governing Commission were appointed at this session of the Council, to hold office for a period of one year from that date. They were M. Rault, state councillor, of France; Mr. Alfred von Boch, landrath of Saarlouis, from the Saar; Major Lambert, of Belgium; and Count de Moltke Huitfeldt, a Danish national. The fifth member was to be Mr. R. D. Waugh, of Canada, although his name was not announced at the time as his acceptance had not been received.<sup>9</sup>

The four members of the Governing Commission were prepared to assume office immediately and, in view of the desirability of relieving the population of the Saar of the military régime to which it had been subjected since the armistice, they decided to proceed without delay.<sup>10</sup> A tentative distribution of duties was one of the first matters to be decided.<sup>11</sup> The choice of the seat of government was another, and this constituted a problem at the outset, for both Saarbrucken and Saarlouis desired to be chosen. A petition from inhabitants of Saarlouis had been sent to the Secretary General of the League asking that Saarlouis be designated, and the Mayor of the city was active in behalf of its selection. The Commission decided, however, that, "in spite of the historical claims of Saarlouis," the more populous industrial center—Saarbrucken—should be chosen.<sup>12</sup> Saarlouis was consoled, however, by the decision of the Commission to establish the Civil and Criminal Court of Appeal there.

On the 25th of February, the day before the Commission assumed power, it posted and had printed in the newspapers of the Saar a proclamation to the inhabitants designed, doubtless, not only to inform them of its general policies but also to anticipate opposition to its

<sup>9</sup> *L. N. O. J.*, no. 2, 48–52.

<sup>10</sup> *First Rept. Gov. Com.*, *L. N. O. J.*, no. 3 (April–May 1920), 100–101.

<sup>11</sup> M. Rault took charge of the Interior, Foreign Affairs, Commerce, Industry and Labor; Mr. von Boch of Finance; Mr. Lambert of Public Works, Railways and the Postal and Telegraphic Service; and Count Moltke-Huitfeldt of Public Education, Ecclesiastical matters, Charities, Health, and Social Insurance. Justice, Agriculture, and Supply were reserved for the fifth member.

<sup>12</sup> On the hypothesis that this was to be an impartial international government it is difficult to understand why the historical claims of Saarlouis should have been considered in any way relevant.

authority.<sup>13</sup> In fact the olive branch was waved at one point and the sword was brandished at another, but the sharp edge of the Commission's authority was shown first, so the gestures of conciliation that followed lost some of their effectiveness. Thus: "It (The Commission) is determined to carry out strictly the clauses of the Treaty of Versailles, and to enforce respect on the part of all for these clauses, both in letter and in spirit." And: "Being firmly resolved to impose respect for its (The Commission's) authority, it will fearlessly suppress all attempts, from whatever source, to disturb or mislead the population. It will tolerate neither open violence, intrigue, nor passive resistance. The Treaty of Peace does not leave it without the necessary authority, and the powers conferred will permit the Commission to devote itself to its task without being troubled with useless and criminal opposition."

The proclamation then went on to assure the inhabitants that the Commission would enforce respect for their rights and well-being, that it would endeavor to restore the prosperity of the Territory, that it would pay particular attention to the development of industry and to the improvement of the conditions of the workers, and that in the exercise of its authority and in its administration, it would be "inspired by the principles which directed the establishment of the League of Nations."

The militant tone of the first part of the proclamation can scarcely be accounted for without reference to the strong protests which had been made by representatives of the population after they had learned that it was proposed to separate them from the German Fatherland. As early as December, 1918, a petition, "signed on behalf of thousands of the representative citizens of Saarbrucken," and citing their "desire to remain united with our German brethren even in this time of trouble and misfortune," was sent to President Wilson.<sup>14</sup> In March, 1919, another petition, signed by the leaders of the political parties, labor organizations, and associations of the City and District of Saarlouis, was laid before the German National Assembly at Weimar.<sup>15</sup> Admitting that, after the conquests of Louis XIV the

<sup>13</sup> *Amtsblatt der Regierungskommission des Saargebietes*, no. 1 (17 April 1920), doc. 1, pp. 1-2 contains text of the proclamation in German. Hereinafter cited, *Amtsblatt*. See *L. N. O. J.*, no. 3, 107-108 for text in French and English.

<sup>14</sup> German White Book, Part III, no. 4, 22.

<sup>15</sup> *Ibid.*, no. 9, 31-32. See also Sidney Osborne, *The Saar Question*, Appendix P, for English translation.

French had held the country until 1815, the petitioners went on to assert that "nevertheless the fact to be considered is that we have to do here with territory that historically is pure German land, and with inhabitants that, with few exceptions, are German by race, language, culture and sentiment. . . ."

In May, 1919, after the peace terms had been disclosed, the representatives of the Saar in the German Reichstag, addressed the German Peace Delegation on the subject, explaining that the inhabitants of the Saar were forbidden to make any political demonstrations, but that they considered the proposed separation of the Saar from Germany an injustice and a violation of President Wilson's Fourteen Points, and that it would prevent a reconciliation between France and Germany.<sup>16</sup>

In the meantime the attitude of the French occupying forces, the hard conditions of military rule, and the inevitable 'incidents' arising under military occupation had tended to confirm the feelings of distrust and hatred toward France, and to aggravate the spirit of nationalism in the Saar.<sup>17</sup> It was scarcely to be expected, then, that any Governing Commission acceptable to the French would be received with open arms even though it represented an alternative to a purely military régime. Furthermore the terms under which it was to govern the Saar were scarcely such as to inspire full confidence that the régime would be a happy one from the point of view of the inhabitants.

Nevertheless on the occasion of the official entry of the Governing Commission into Saarbrücken, delegations of officials and representatives of organizations of the Territory came to pay their respects and to promise loyal collaboration.<sup>18</sup> M. Rault, the chairman of the Commission, in his reply to these courtesies elaborated the principles contained in the proclamation of the day before. Later, in his report to the Council of the League on this exchange of amenities M. Rault explained: "It was the more necessary to reassure the inhabitants of the Territory, as they had long been expecting the arrival of the Commission and had great faith in it."<sup>19</sup> His next act was evidently cal-

<sup>16</sup> Osborne, *op. cit.*, Appendix R, 365-366.

<sup>17</sup> German White Book, Part III, *passim*. See also First Rept. Gov. Com., L. N. O. J., no. 3 (April-May 1920), 102 concerning the unrest among the inhabitants as a result of the "absence of all political life, the economic difficulties, and the constraint of a prolonged military régime."

<sup>18</sup> First Rept. Gov. Com., *op. cit.*, 101.

<sup>19</sup> *Ibid.*, 102.

culated to reassure the military authorities rather than the population for, according to his report, "the President of the Commission made a point of paying a public tribute" to General Wirbel, the Supreme Administrator of the Saar. This, of course, was a tactful act from the point of view of the future relations between the Governing Commission and the French army of occupation; it was a tactless one from the standpoint of the future relations between the Commission and the population.

The Commission set to work with commendable promptness to substitute a civil régime in place of the military rule which had weighed so heavily on the inhabitants. It retained a reduced staff of the army officials as a temporary measure but asserted that these would be "gradually replaced by inhabitants of the Saar, under the direction of a few heads of services from other countries chosen for their professional ability."<sup>20</sup> It restored freedom of movement within the Saar, abolished postal censorship, took steps to restore the freedom of the press and the rights of assembly, abolished the military police courts, and, in this connection, asserted in its report to the Council that "no inhabitant of the Saar will henceforth be summoned before a court martial." Finally, it promulgated an amnesty ordinance covering sentences pronounced by the military police courts, and announced that other similar "measures of grace" would follow.<sup>21</sup>

The Governing Commission had a number of problems before it for solution. On the political and administrative side it was faced with the problem of establishing a Central Administration to replace the military administration that had been imposed since the armistice. It had to organize certain services and reorganize others to correspond with the newly made Territory over which it was to govern. This matter of administrative reorganization was studied by the President of the Commission and his conclusions were adopted by the Governing Commission.<sup>22</sup> The "administrative and judicial autonomy of the Territory" was effected as a result of the measures adopted in this connection.<sup>23</sup>

<sup>20</sup> *Ibid.*, 103. The policy of the Governing Commission to recruit its officials principally from "among the native inhabitants of the Saar" was indicated at this time.

<sup>21</sup> First Rept. Gov. Com., *op. cit.*, 104.

<sup>22</sup> Third Rept. Gov. Com., *L. N. O. J.*, no. 5 (July-August 1920), 280.

<sup>23</sup> *Ibid.*, chap. 4.

Another matter demanding immediate attention was the reconstitution of local assemblies in the Saar, for political as well as civil rights had been in abeyance during the military régime, and the Treaty required that the Governing Commission must consult the elected representatives of the inhabitants before modifying the laws and enactments in force on the 11th of November, 1918.<sup>24</sup> President Rault caused an investigation to be made into the local customs, and the electoral laws enacted in Germany since the Revolution, after which a draft law was drawn up and discussed by the Governing Commission. Before it was adopted, however, it was submitted to the party leaders of the Territory and their comments taken into consideration.<sup>25</sup> Elections under it were to take place before July 20, 1920.

The economic situation gave the Commission the greatest concern. The transfer of the mines to France and the setting up of the new French customs régime of necessity disturbed the normal course of business and worked hardship to many interests.<sup>26</sup> In the meantime the depreciation of the mark was necessitating constant increases in rates, was working hardship especially on persons living on fixed incomes, and was resulting in prohibitive prices for goods purchased in France (in francs). To make matters worse the German government decided in April, 1920, to close the frontiers both to exports and imports. As the Saar was dependent upon Germany for the major part of its food and merchandise this was serious, and the Governing Commission, with some misgivings, provisionally admitted a representative of the Imperial German Commissioner for Exports and Imports, empowered to make adjustments, into the Chamber of Commerce of Saarbruck.<sup>27</sup>

Serious economic difficulties were encountered in another direction. The amount of coal supplied the Saar factories by the French State Mines, although apparently quite up to the requirements of the

<sup>24</sup> Second Rept. Gov. Com., *L. N. O. J.*, no. 4 (June 1920), 195.

<sup>25</sup> *Ibid.*, 196.

<sup>26</sup> First Rept. Gov. Com., *op. cit.*, 102.

<sup>27</sup> Second Rept. Gov. Com., *op. cit.*, 192. President Rault apparently felt it necessary to explain: "The Governing Commission is not blind to the drawbacks resulting from the presence of a German official in the Territory, but as its main care is the well-being of the inhabitants, it has determined to waive political objections and not to oppose an attempt which, judging by the feeling of the Chamber of Commerce, might improve the position of the traders in the Territory by facilitating their transactions."

Treaty, was, according to the Commission's report of June 1, 1920, "far from adequate for their needs."<sup>28</sup> The Governing Commission, of course, was powerless under the Treaty to require of the French State Mines an additional amount of coal for the needs of the Territory. On the other hand Germany sent "but a fraction of the amount of coke which she used to supply to the steel works in the Saar Basin."<sup>29</sup> The result was that these works had to restrict their output, and this in turn meant unemployment. The workers demanded higher wages, and the employers declared their inability to grant the demands.

The prospect of the introduction of the franc into the mining industry alarmed the other industries of the Territory and led the Governing Commission to fear not only adverse economic results but political opposition. This was a Treaty right, however, of France and the most the Commission could do was to take steps to "combat the rise in the cost of living" which would inevitably attend the introduction of the French currency in the Saar.<sup>30</sup>

This does not exhaust the difficulties of an economic nature that faced the Commission and the Territory but it is perhaps sufficient to indicate the nature and extent of the problems that had to be dealt with and to account in part for the unrest of the population, and the hostility shown toward the new régime.<sup>31</sup>

In the meantime in certain directions where it was not hampered by Treaty restrictions or inhibited by political considerations the Commission took active steps calculated to improve conditions in the Territory and to give evidence of its good will toward the inhabitants.<sup>32</sup> Indeed in at least one important instance the President of the Commission succeeded in getting the French government to agree not to forbid the entry into the Saar of certain much needed articles of daily use that could be obtained only from Germany, although the French

<sup>28</sup> Third Rept. Gov. Com., *op. cit.*, 277.

<sup>29</sup> *Ibid.* The Saar coking coal was of inferior quality and could therefore only be used effectively in blast furnaces by mixing it with at least 20 per cent of Westphalian or equally good coke. The Saar had been to some extent dependent on Westphalian coal as well as coke. (U. S. Geol. Surv., *Bull.* 703, 25.)

<sup>30</sup> Fourth Rept. Gov. Com., *L. N. O. J.*, no. 6, 370.

<sup>31</sup> The policies of the Governing Commission, considered in the following chapter, were to increase and intensify this unrest and hostility.

<sup>32</sup> See Third Rept. Gov. Com., *op. cit.*, 281 on reorganization of the Food Supply Services for the benefit of the population; 282, 284 for measures taken to relieve the housing shortage in the Territory, and other acts for the welfare of the population.

government had prohibited them by decree, as it assumed it had a right to do under the Treaty.<sup>33</sup>

Nevertheless the concluding paragraphs of the report of the Commission in June, 1920, showed that the Commission had won the ill will and distrust of the leaders of the population rather than their esteem and confidence during its three months in office. According to the Commission, the hostility encountered was "chiefly to be found among the officials, the teaching profession, the clergy, and the higher industrial and commercial classes." These classes were opposed to the application of the Treaty and were not inclined to accept the authority of the League of Nations. The Commission also asserted that certain German organizations "whose purpose it is to oppose by all possible means the putting into force of the Treaty of Peace in the plebiscite areas" were at work in the Saar, and that they were carrying on their propaganda through the most widely read local newspapers.<sup>34</sup>

Under these circumstances the Governing Commission was not slow in meeting what it considered a dangerous situation. In less than two months after it had assumed power it had begun to recede from the liberal stand it had taken in the beginning. Although it had announced in March that steps were being taken toward the complete restoration of the liberty of the press and had at the same time promised that the inhabitants of the Saar would no longer be brought before courts-martial,<sup>35</sup> in April it reversed its position. The occasion was a bitter attack on the French army for alleged atrocities committed when it occupied Frankfort, an account of which was published in the *Volkstimme*, a Socialist paper, on the 14th of April.<sup>36</sup> The General in command of the French troops in the Saar inquired whether the Commission saw any "political objections" to the institution of court-martial proceedings against the offending editor. The editor refusing in the meantime to withdraw his charges, the Commission decided that it could see no political objections to anything the French general thought necessary to do in order to safeguard the interests of his troops.

<sup>33</sup> *Ibid.*, 283. *Supra*, 138 (note). It is not altogether clear, however, that the French interpretation of paragraph 31 was correct, although the Governing Commission seems not to have questioned it.

<sup>34</sup> *Ibid.*, 284-285.

<sup>35</sup> *Supra*, p. 145.

<sup>36</sup> Second Rept. Gov. Com., *op. cit.*, 196.

Subsequently, in a report to the Council of the League, the Governing Commission explained that it was still dependent on the French troops for keeping order in the Territory, not having been able to organize a police force up to that time, and that under the circumstances it could not allow aspersions to be cast on the French military forces. Moreover, since the Civil and Criminal Court, which the Commission was required by the Treaty to establish, had not yet come into being, and since there was no doubt that, regardless of the merits of the case, the editor would have been "ostentatiously acquitted" if tried before the ordinary tribunal at Saarbrucken, the Commission "allowed military justice to take its course."<sup>37</sup>

On another matter the Commission itself threatened to take drastic action. Anticipating a railway strike it issued a decree warning the railwaymen that should a strike occur a state of siege would be proclaimed, the civilian personnel would be requisitioned to assure the continuance of service, and "the instructions of the authorities responsible for the maintenance of order would have to be obeyed by all workmen and employes." The decision to take these extreme measures in the event of a railway strike was justified, in the view of the Commission, by the fear that the stoppage of transportation would imperil the population's food supply, that it would endanger the public peace, that it would hamper the French in the exploitation of the mines, and that it would interfere with vital communications of the Allied armies of occupation.<sup>38</sup>

Apparently convinced that most of its trouble was due to the presence and activity of nationalist organizations, and to agitators acting in sympathy with or as agents of the German government and sent into the Territory for the purpose of stirring up opposition to the authority of the Governing Commission and discrediting it in the eyes of the population,<sup>39</sup> the Governing Commission began in June to take measures designed to stop such activities.<sup>40</sup> Admission to the Territory was henceforth to be "subject to certain formalities, observance of which will be supervised by the gendarmerie," and measures were planned for the purpose of "controlling the movement of foreigners."

<sup>37</sup> *Ibid.*, 196-197.

<sup>38</sup> *Ibid.*, 194.

<sup>39</sup> See First Rept. Gov. Com., *op. cit.*, 102; Second Rept. Gov. Com., *op. cit.*, 191; Third Rept. Gov. Com., *op. cit.*, 278; Fourth Rept. Gov. Com., *op. cit.*, 372.

<sup>40</sup> Fourth Rept. Gov. Com., *op. cit.*, no. 6 (September 1920), 372.

The first period under the régime of the Governing Commission ended with the month of June, 1920. Although important decisions were taken during this transitional period<sup>41</sup> the Commission's activities were restricted largely to matters of administrative organization and, in general, to questions that did not require the consultation of the elected representatives of the inhabitants. Nevertheless even in this short period something of the nature of the problems to be solved was indicated. With the summoning of the local representative assemblies in July, however, purely autocratic government came to an end while at the same time an important limitation on the powers of the Governing Commission was thereby removed.<sup>42</sup>

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<sup>41</sup> The establishment of the Supreme Court of Justice, the organization of the railways, and the decision having to do with protection abroad of the interests of the Saar inhabitants are treated in the following chapter; and the arrangement concerning the retention of the French troops in chapter 6.

<sup>42</sup> The power to modify legislation. *Supra*, 134, 137.

## CHAPTER IV

## THE POLICIES OF THE GOVERNING COMMISSION

The struggle over the Saar question at the Peace Conference revealed two rather divergent points of view and, therefore, the objectives sought in the compromise finally agreed upon could hardly be the same for those holding these contradictory views. There was, doubtless, the necessary 'meeting of minds' concerning the specific intent to draw up a set of provisions which would effectually ensure France complete freedom from obstruction in exploiting the mines and selling or otherwise disposing of the product. It must be remembered, however, that the French had contended that they were entitled not only to the mines but to the Saar territory as well.<sup>1</sup>

On the other hand, President Wilson did not think they had a valid claim to either, although he readily agreed that the Saar mines should furnish part of the reparation coal.<sup>2</sup> Agreeing, finally, to the transfer of *ownership of the mines* he refused to agree to the transfer of the territory or any part of it. When they rejected his proposed arbitration commission, he suggested the alternative plan of an international administrative commission designed, apparently, to accomplish the same thing more certainly than, in the opinion of the French, it could be accomplished by an arbitration commission.<sup>3</sup>

There is no evidence that the assertion of the French that there were 150,000 Frenchmen in the Saar whom they felt it necessary to protect made any impression whatever on President Wilson.<sup>4</sup> Their suggestion of a plebiscite after fifteen years was quoted at the time by Lloyd George, at least, as a concession to President Wilson on the part of the French.<sup>5</sup> By it the right of the population to self-

<sup>1</sup> *Supra*, 125-126.

<sup>2</sup> *Supra*, 127.

<sup>3</sup> That is, the avoidance of conflict, obstruction, or delay which would militate against the property rights of the French in the mines. See, in this connection W. R. Bisschop, *The Saar Controversy*, 40.

<sup>4</sup> According to Tardieu the President up to the very last refused to agree to a suspension of German sovereignty and rejected the suggestion of a French mandate (*op. cit.*, 271).

<sup>5</sup> Tardieu, *op. cit.*, 276.

determination was deferred for a period of years rather than abandoned. The French, however, saw the matter from a different angle. They had frankly stated in substance that they were interested in the suspension of German sovereignty in the region not only in order that their legitimate economic activities might not be interfered with but that their equally legitimate political objective—the winning of the plebiscite in 1935—might have a better prospect of success.<sup>6</sup>

The Governing Commission, being a policy-determining organ as well as an administrative body, and having the power as well to interpret the provisions of the Treaty relating to the Saar, was in a position to construe them either in the French sense, or in what may be called the Wilsonian sense, and to formulate its policies accordingly. A study of the record will now be made in order to determine to what extent it adopted the one or the other view.

First of all, the reports of the Governing Commission to the Council of the League, giving the reasons for specific measures it has adopted as well as the various measures themselves, seem to reveal that the Commission's chief concern has been to cut as completely as possible the religious and cultural as well as the political and legal threads connecting the Saar to the German State.<sup>7</sup> In its first report the following statement, duplicated in substance many times in succeeding reports, is to be found:<sup>8</sup>

It [the Governing Commission] is endeavoring to conform with the Treaty by making the Territory of the Saar an autonomous country independent of Germany.

In this enterprise the importance of the external badges of statehood was not overlooked, and within a few months of its inauguration the Governing Commission decided to adopt "certain measures designed to emphasize the political autonomy of the Saar Territory." It therefore decided on a flag of black, white, and blue, and selected a design for a coat-of-arms for the Territory based on a combination of

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<sup>6</sup> See Tardieu, *op. cit.*, 275, in which he says: "Moreover, in order to ensure this reunion in fifteen years by the free vote of the population, the minimum condition is that the territory until then be withdrawn from the pressure of Prussian administration to which it has been subjected for one hundred years."

<sup>7</sup> The economic severance of the Saar from Germany was anticipated in various economic provisions already noted. *Supra*, 34-36. It is exceedingly difficult to define precisely how far it was necessary for the Governing Commission to go in cutting the Saar off from Germany in order to insure the French complete freedom in mining, transporting, and selling the coal. It would seem, however, that the accomplishment of this object should be the governing consideration.

<sup>8</sup> First Rept. Gov. Com., *op. cit.*, 104.

the arms of the four principal towns of the Saar. The Saar Territory must also have its own postage stamps and the postal administration undertook to see that new 'Saar' stamps were issued.<sup>9</sup>

Another measure had the effect not only of emphasizing the Saar's political independence of Germany but of stressing its political dependence on France. Among the specified duties of the Governing Commission was "the protection abroad of the interests of the inhabitants." It was left free, however, to ensure this protection "by such means and under such conditions" as it should think best.<sup>10</sup> Thus it might, conceivably, create a diplomatic and consular establishment for the Territory which, incidentally, would have served further to emphasize its autonomous condition. On the other hand it had other alternatives—it might look to Germany, it might seek the protective influence of France, or it might approach a neutral Power and ask it to look after the foreign interests of the Saar inhabitants.

The Governing Commission finally decided to entrust these interests to France.<sup>11</sup> Although the inhabitants were German nationals, except for the few Frenchmen in the Territory, apparently the Commission did not at any time consider the availability of the German government.<sup>12</sup> M. Rault reported the reasons for the Commission's decision as follows: The slender financial resources of the Territory could not bear the strain of a separate diplomatic establishment, although the commerce and industry of the Saar were so highly developed that there was need for the protection of the interests of the inhabitants in every part of the world. The Commission found it "natural, therefore, to confide the protection of the foreign interests of the Saar Territory to one of the Great Powers represented on the Governing Commission, and possessing agents accredited to all the Powers." Finally, said M. Rault, the same reasons that led M. Caclamanos to suggest to the Council that the French member of the Commission be made its President led the Governing Commission unanimously to conclude that France was the logical Power to call upon to protect abroad the interests of the Saar inhabitants.<sup>13</sup> Thus it was delicately suggested that the Council itself had provided the solution of the problem.

<sup>9</sup> Fifth Rept. Gov. Com., *L. N. O. J.*, no. 8 (Nov., Dec. 1920), 66-67.

<sup>10</sup> Treaty, Part III, Sec. IV, Annex, par. 21.

<sup>11</sup> Fifth Rept. Gov. Com., *op. cit.*, 67.

<sup>12</sup> Although the Commission has not stated it officially, my information is that a neutral Power, Switzerland, was first approached, but declined.

<sup>13</sup> Fifth Rept. Gov. Com., *op. cit.*, 67.

President Rault, who already possessed the portfolio of Foreign Affairs, was naturally charged by the Commission with the duty of executing the decree,<sup>14</sup> and in due course the French government accepted the responsibility.

The problem of railway organization in the Saar was anticipated by General Foch as early as December, 1919. As President of the Inter-allied Council of War he ordered the establishment at Saarbrucken of a special "Board for the Territory of the Saar."<sup>15</sup> The German government refused to accept this decision and negotiations were still being carried on with it at the time the Governing Commission took over authority. The date had been fixed for the establishment of the contemplated Board, and the decision would probably have been carried out regardless of the protests of the German government, but Marshal Foch decided to refer the matter to the Governing Commission. The latter, after studying the question, "considered it advisable to establish a Board for the Saar Railways, independent of all authority outside the Saar, and to order the transfer, to some city outside the Saar, of the administration of lines lying outside the Saar and depending on the governments of Berlin and Munich."<sup>16</sup> It then entered into negotiations with Germany to secure "an equitable apportionment of rolling stock"<sup>17</sup> for the Saar system, and reached a very advantageous agreement. Thus it was able to report in June, 1920, that "an absolutely autonomous system" had been established.<sup>18</sup>

According to the Treaty the local civil and criminal courts of the Saar were not to be disturbed.<sup>19</sup> However, instead of appeals from these courts lying as before to the higher German courts at Cologne and Leipzig,<sup>20</sup> the Treaty authorized the Governing Commission to set up a court of civil and criminal appeal which would also have original jurisdiction "on matters for which these courts are not competent."<sup>21</sup> In setting up this court the Commission decided that it

<sup>14</sup> *Amtsblatt*, no. 7 (July 24, 1920), Doc. 98, for official text of the Decree, which specifies that it shall be executed by the President of the Commission.

<sup>15</sup> Up to this time Saarbrucken had been the seat of a Prussian Railway Board. The authority of the latter extended into other Prussian territory. The Bavarian section of the Saar lines had been in charge of the Bavarian Board of Railways at Ludwigshaven. The Marshal's order included the transfer of the Prussian Board to some point outside the Saar.

<sup>16</sup> First Rept. Gov. Com., *op. cit.*, 105.

<sup>17</sup> See Treaty, Part III, Sec. IV, Annex, par. 22, for authorization of Governing Commission to have this apportionment made.

<sup>18</sup> Third Rept. Gov. Com., *op. cit.*, 282-283.

<sup>19</sup> *Supra*, 138.

<sup>20</sup> Priou, *op. cit.*, 45.

<sup>21</sup> Treaty, Part III, Sec. IV, Annex, par. 25.

should be "composed of judges belonging to countries which have joined the League of Nations."<sup>22</sup> Two of the eleven judges, however, were from the Saar. Three of the remaining members were Swiss. Professor Ottfried Nippold of Berne being the first appointee and President of the Court. The remaining judges were of other nationalities as follows: two French, one Belgian, one Hollander, one Czechoslovak, and one Luxemburger.<sup>23</sup>

The power of the Commission over the public officials of the Territory was carefully provided for in the Treaty.<sup>24</sup> One of the "three essential questions" that M. Tardieu had asked President Wilson when the latter proposed an administrative commission for the Saar was: "Will the Commission have full rights, including that of dismissing officials?" The affirmative answers to the three questions, as we have seen, had led the French to accept the plan.<sup>25</sup> It was, indeed, an important point. There were about 30,000 officials of all grades in the Saar.<sup>26</sup> Many of them had been sent into the Territory as appointees of the Imperial, Prussian, or Bavarian governments. They now became officials of the Governing Commission, which had the right of appointment and dismissal.

The Governing Commission, in accordance with its announced policy of making the Saar completely independent of Germany, would probably have preferred to dismiss such officials as were not native inhabitants of the Saar. But these Prussian and Bavarian officials were men trained for public service, and there were not many natives of the Saar to be found with the requisite training. In view of this situation the Governing Commission decided to ask the Imperial, Prussian, and Bavarian governments to place their respective agents holding office in the Saar at its disposal. The Governing Commission would then reappoint them, requiring at the same time that they take an oath of fidelity directly to the Governing Commission.<sup>27</sup>

As the services became permanently organized the Commission planned gradually to introduce "inhabitants of the Saar" into them, although choosing the directing heads from skilled administrators drawn from other countries.<sup>28</sup> As far as the Central Administration was concerned a rule was adopted that three-fourths of the positions

<sup>22</sup> This had the effect of excluding the nationals of Germany.

<sup>23</sup> Sixth Rept. Gov. Com., *L. N. O. J.*, 2d year, no. 2, 205.

<sup>24</sup> Part III, Sec. IV, Annex, par. 19.

<sup>25</sup> Tardieu, *op. cit.*, 276.

<sup>27</sup> First Rept. Gov. Com., *op. cit.*, 103-104.

<sup>26</sup> Priou, *op. cit.*, 39.

<sup>28</sup> *Ibid.*, 103.

available should be reserved for candidates from the Saar Territory.<sup>29</sup> In any case officials were forbidden to belong to associations outside the Territory without permission from the Governing Commission.<sup>30</sup>

In order to assure "the complete autonomy of the Saar Basin" the Commission found it necessary to go farther and introduce certain modifications in the laws and regulations in force in the Territory.<sup>31</sup> This required, however, the consultation of the elected representatives of the inhabitants, and of course proposed modifications of the laws designed to cut the Saar off from Germany met with their disapproval rather than their approval. Nevertheless the Commission was obligated by the Treaty only to *ask* their advice; it was not required to take it.<sup>32</sup> Therefore, holding the view that the Treaty "definitely laid upon the Governing Commission the duty of assuring the political autonomy of the Saar Territory," the Commission was inclined to disregard opposition to changes it considered necessary in the accomplishment of that object.

The general policy of the Governing Commission was perhaps best summarized in its answer to the reproach of the District Council of Saarbruck-Campagne that the Commission was trying to effect the political and economic separation of the Saar from Germany. M. Rault, speaking for the Commission, said:<sup>33</sup>

The Governing Commission's policy has always been based on the following considerations. The inhabitants of the Basin are to be placed in an exceptional situation for fifteen years. The special status accorded them in the Treaty of Peace was arranged in order to give them at a later date, the full and independent right of self-determination. In their own interest, and in order to assure the genuine

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<sup>29</sup> Sixth Rept. Gov. Com., *op. cit.*, 204.

<sup>30</sup> Special Rept. (Secret) Gov. Com., Council Doc 02a (Aug. 18, 1920).

<sup>31</sup> Tenth Rept., Gov. Com., *L. N. O. J.*, 3d year, no. 3, 233. In point here were the decrees defining the meaning of the term "inhabitant of the Saar," and modifying certain laws concerning the judicial system.

<sup>32</sup> For a different, though in my opinion an erroneous view, see W. R. Bisshop, *The Saar Controversy*, 76. The reply of the Allied and Associated Powers to the Observations of the German Delegation on the Conditions of Peace is also of interest. Answering the objections of the Germans to the Saar provisions of the Treaty, they said: "The arrangement made will afford an ample guarantee against the misuse of the power which is entrusted to it; but, in addition, the Governing Commission is required to take the advice of the elected representatives of the district before any change in the laws can be made or any new tax imposed" (Internat. Concil., no. 144 [Nov. 1919], 1362). The last part of the sentence as sent originally in the French language was as follows: ". . . la Commission sera tenue de prendre l'avis des représentants élus du district, avant de procéder à aucun changement des lois ou de lever aucun impôt nouveau." (Schücking, *op. cit.*, I, 589.)

<sup>33</sup> Tenth Rept. Gov. Com., 3d year, no. 3, 234.

character of the plebiscite of 1935, they must be immediately subjected to a completely autonomous régime. This autonomy would not have been complete if the political and the administrative bonds attaching the Saar Basin to the German Empire, to Prussia and to Bavaria had not been gradually broken, and if the population had continued to be to any extent or in any way dependent upon authorities situated outside the Basin, or if the policy adopted in the Territory had been influenced by the German, Prussian or Bavarian administration.

The decree defining the term "inhabitant of the Territory of the Saar Basin," fixing the status of the persons to whom it applied, and determining how the status might be acquired and lost, may be mentioned at this point. The Treaty had not clearly defined the term but it had been used many times.<sup>34</sup> The decree recognizes persons born in the Territory and those resident in the Territory on November 11, 1918, as inhabitants "by right." Other persons may acquire the status by residing in the Territory for a period of three years. This period of residence is reduced to one year, however, in the case of public officials, and others who can prove that they hold "a position which requires that their main residence be in the Territory of the Saar Basin."<sup>35</sup> Any person residing in the Territory but not enjoying the status of "inhabitant" is henceforth to be considered a foreigner.

In explaining this decree the Governing Commission said that it had in mind the assurance of equal rights to all the inhabitants of the Saar; that those of German nationality had enjoyed "considerable privileges in comparison with the nationals of other states"; and that it considered it necessary, therefore, "to lay down that nationality should no longer be a hindrance to the inhabitants of the Saar Territory, and that the legislative provisions in force which conflict with this principle should be withdrawn." That German nationals who did not possess the status of inhabitants of the Saar should be considered as aliens within its boundaries was "only an inevitable consequence of the provisions of the Treaty of Peace."<sup>36</sup>

The announced intention of the Governing Commission to relieve the population from dependence "to any extent or in any way . . . upon authorities situated outside the Basin" would seem to point to the establishment of religious as well as political autonomy for the

<sup>34</sup> See Part III, Sec. IV, Annex, *passim*.

<sup>35</sup> *Amtsblatt*, no. 9 (25th June 1921), doc. 530, for text of the decree; *L. N. O. J.*, 2d year, no. 8, 859-861 for English translation.

<sup>36</sup> Eighth Rept. Gov. Com., *L. N. O. J.*, 2d year, no. 8, 842.

Territory. As it is, the Catholic clergy in the Saar, though paid from the treasury of the Territory, are subject to control from the German bishopries of Treves and Spire.<sup>37</sup> On at least one occasion the Bishop of Treves seems to have used his authority to interfere in the affairs of the Saar.<sup>38</sup> Again, on the occasion of "Katholikentag," when 75,000 Catholics gathered at Saarbrucken from all parts of the Territory and staged a demonstration hostile to the Governing Commission and its policies, the bishops of Treves and Spire were present and lent their encouragement.<sup>39</sup>

It is scarcely to be doubted that the Governing Commission has been seeking a solution for this problem along the lines followed in the political sphere, i.e., religious autonomy. This could be accomplished by the creation of a separate bishopric for the Saar. The Catholics assembled at Saarbrucken seemed to think that the Governing Commission was working for such a solution, for they took occasion to protest against it. If tentatives were ever made to the Vatican, however, they seem to have been rebuffed.<sup>40</sup> Certain French writers have suggested that a satisfactory solution lies in the proposal that the Vatican provide an Apostolic Vicariate for the Saar and thus directly control the Saar clergy.<sup>41</sup> It may be surmised that the Governing Commission is not accepting the *status quo* as satisfactory. It is not to be expected, however, that any steps it may be taking will be divulged unless and until an arrangement with the Vatican has been reached, for the matter is a delicate one.<sup>42</sup>

The policy of the Governing Commission concerning education in the Territory has been likewise dictated by a desire to establish an autonomous system quite independent of Germany. Within a few months after taking office it decided that a general reform of public education was necessary, and appointed a committee of resident professors and teachers in October, 1920, to draw up a reorganization

<sup>37</sup> Priou, *op. cit.*, 48.

<sup>38</sup> By sending a pastoral letter to be read in the churches of his diocese in the Saar calling upon Catholic parents to withdraw their children from the schools of the Mines Administration and send them to the national schools. (Letter from the Chairman of the Governing Commission to the Sec'y-Genl. of the League of Nations under date of March 8, 1923, *L. N. O. J.*, 4th year, no. 4, 419).

<sup>39</sup> *Journal des Débats*, June 10, 1923.

<sup>40</sup> Priou, *op. cit.*, 48.

<sup>41</sup> Jean de Pange, "Le Territoire de la Sarre," *Correspondant*, CCLXXXV, 988. See also Priou, *op. cit.*, 48.

<sup>42</sup> To antagonize the Church would, of course, tend to aggravate the hostility of the numerous Catholics of the Saar.

scheme. It also decided to place in charge of the Department of Education a priest of the Saar Territory rather than a German from the outside.<sup>43</sup>

In the meantime (July 10, 1920) two decrees were issued which, in the opinion of the Governing Commission, did not in any way modify existing laws, and therefore were not submitted in advance to the elected representatives of the inhabitants.<sup>44</sup> The first decree permitted children of employes of the Mines Administration, regardless of nationality, to satisfy the compulsory education requirement by attendance at the schools of the mining administration; the second one allowed children of persons not employed in the mines to fulfil the educational obligations prescribed by law by attendance at these schools. The Commission stated that this step was taken in response to numerous requests from parents of German nationality to allow their children to attend the schools set up by the Mines Administration.<sup>45</sup>

During the ensuing year so many children entered the schools of the State mines, and the Department of Education received so many applications from the parents of others, according to the Commission's report of August 1, 1921, that Count Moltke-Huitfeldt was "convinced . . . that a large part of the population wishes to see the study of French introduced into the primary schools. . . ." The Commission also felt that in a frontier community such as the Saar, "a knowledge of two languages confers an obvious superiority, and represents a real advantage." It therefore decided to institute optional courses in French for children from 10 to 13 years of age attending the regular primary schools. As a preliminary step toward the training of an adequate instructional staff for this work about forty teachers of the Saar were selected, by means of oral and written examinations, to take the vacation courses for foreigners offered in France at Boulogne-sur-Mer and Nancy. In addition to the regular courses in French established in the primary schools, special classes were organized in 1922 to meet the needs of pupils "who desire, before leaving the

<sup>43</sup> Sixth Rept., *op. cit.*, 205; Seventh Rept., 2d year, nos. 5-6, 630.

<sup>44</sup> See letter from the Chairman of the Governing Commission to the Secretary-General of the League of Nations, *L. N. O. J.*, 4th year, no. 4, 417-420.

<sup>45</sup> Seventh Rept. Gov. Com., *op. cit.*, 630; Eighth Rept. Gov. Com., *op. cit.*, 845. It may be noted that, according to the figures of President Rault, on January 15, 1923, there were 123,000 children attending the national schools and 4400 attending the schools maintained by the French mines (letter of the Chairman, *loc. cit.*, 419). The total number registered for instruction in French in the primary schools in 1922 was 13,612. (Tenth Rept. Gov. Com., *L. N. O. J.*, 3d year, no. 3 (March 1922), 222).

primary schools, to prepare themselves for going on at the age of 13 or 14 to secondary schools in which French is a compulsory subject.''<sup>46</sup>

Among other reforms projected in the school system was the founding of a higher technical school for the Territory. This consummation had been postponed deliberately by Prussia, according to the Commission, in order to compel students to attend establishments in the interior of Germany. On the other hand the Commission felt that such an institution was indispensable in a mining and industrial region of the character of the Saar, and that its establishment would give satisfaction to "people of the Saar Territory who are desirous of completing their professional education in their own country."<sup>47</sup> That the founding of a university at Saarbrucken, in order to enable young aspirants to get their higher education in the Saar instead of having to go to Bonn and Heidelberg, was envisaged by the Commission, is indicated by Priou,<sup>48</sup> but the undertaking apparently proved too expensive to be realized at once.

In considering the economic policies of the Governing Commission it must be noted at the outset that it had fewer opportunities for vital initiatives than it had in most of the matters already considered. The economic provisions of the Treaty were so minute and at the same time so sweeping that on the most vital matters little was left for the Governing Commission to do except to stand by and see that the rights and privileges granted to France were not denied her and on the other hand take such action as it might in order that the hardships and uncertainties involved in the process of severing old economic relationships and establishing new ones should be as slight as possible. In other words, in the political sphere positive action on the part of the Governing Commission was necessary in order to autonomize the Saar, whereas in the economic domain the active rôle in the enterprise of detaching the Saar from Germany was for the most part assigned by the Treaty to France.<sup>49</sup> The decisions of France, however, of necessity called frequently for consequential decisions on the part of the Governing Commission itself, as will appear.

On the first of July, 1920, the French State Mines, availing themselves of their right under the Treaty to discard the German mark for the French franc in their business transactions, began to pay the

<sup>46</sup> Tenth Rept. Gov. Com., 3d year, no. 3, 221.

<sup>47</sup> Seventh Rept. Gov. Com., *op. cit.*, 631.

<sup>48</sup> *Op. cit.*, 50-51.

<sup>49</sup> *Supra*, 135-137.

miners in francs and to conduct all their financial transactions in French currency.<sup>50</sup> This action, which resulted in 70,000 workers of the Saar receiving wages in a currency of a higher value than that possessed by the depreciated mark, caused a rise in the cost of living. As the mark continued to drop in value the miners came shortly to occupy a privileged position and the other workers began to complain that their wages were inadequate.

In September, according to the Governing Commission, the metal-workers' Socialist trade unions demanded that their wages be paid in francs. This was a matter in which the Governing Commission had no decision and in which it was not inclined to intervene, and the employers at first would only agree to an increase of wages in marks.<sup>51</sup> In November, however, the iron works and some of the foundries gave way and consented to pay their workers in francs. Thus, although the employers of "finishing works" still refused to pay their workmen in francs the great majority of the working population were now being paid in French currency.<sup>52</sup>

As a result of this situation the President of the Governing Commission on December 1, 1920, submitted a report to the Commission in which he predicted that the franc was certain to oust the mark, and that as an employer of labor the Governing Commission itself must face the question of paying its employees in francs. Already, according to the President, a large number of officials of the Central Administration, had made requests that they be paid in francs. He recommended that the whole question be studied, and the Governing Commission by resolution decided to appoint a committee to inquire into the matter. The Secretary General of the Governing Commission was made its chairman.<sup>53</sup>

On March 16, 1921, the Chairman of the Governing Commission, in agreement with the Minister for Public Works (Lambert) submitted a report to the Commission in which the serious budgetary difficulties confronting the Commission as a result of the retention of the depreciating mark were pointed out, and the recommendation was made that the salaries of the railway, postal, telegraph, and telephone staffs be paid in francs and the charges for service reckoned in that currency after May 1, 1921. This was agreed upon, and a like decision

<sup>50</sup> Fourth Rept. Gov. Com., *op. cit.*, 369-370.

<sup>51</sup> Fifth Rept. Gov. Com., *op. cit.*, 75.

<sup>52</sup> Sixth Rept. Gov. Com., *op. cit.*, 199.

<sup>53</sup> *Ibid.*, 200-202.

was taken at a later meeting with respect to the salaries of officials of the Central Administration, the constabulary, the Saar police officers, and the employees of the water-works.<sup>54</sup> On August 2, 1921, the Commission legally recognized the *de facto* dual currency system in the Saar by substituting in the Civil and Commercial Codes the words "the two currencies of the country" for "the currency of the Empire."<sup>55</sup>

The momentous decision to adopt the French franc as the sole legal tender of the Saar was foreshadowed in subsequent reports. In a special report on the economic situation in the Territory under date of December 21, 1921, the Commission after pointing out the difficulties arising from the circulation of two currencies, one of them constantly depreciating, recalled that on January 10, 1925, importations from Germany would be subject to French customs duties, and that prices would undoubtedly rise. For that reason "there should be as many persons as possible in the Territory in the possession of francs."<sup>56</sup>

A year later the Commission reported the situation resulting from the depreciation of the mark as greatly aggravated. It said in part:<sup>57</sup>

The simultaneous circulation in the Saar Territory of the franc and the mark has created an extraordinarily complicated situation; it is impossible to balance a regular budget, either as regards the Territory and its administrative districts or as regards commercial and industrial enterprises, with two currencies in circulation, the rates of exchange for which differ so widely and are continually fluctuating. As is well known, about three-quarters of the inhabitants are paid in francs, all transactions by the administration of the State mines are carried out in francs, transport costs and postal charges must be paid in francs. Salaries paid in marks are constantly subject to revision, and nowadays amount to little more than salaries in francs expressed in marks. Nevertheless, the fixing of these salaries from time to time has given rise, especially last August, to certain incidents, short and partial strikes and in some cases to demonstrations. . . . a Committee of Action formed by the Free Syndicates and Socialist and Communist Parties . . . demanded either the abolition of the double currency system or the establishment of French currency as the sole legal tender.

Finally, on June 1, 1923, the Germany currency was eliminated by action of the Governing Commission and the franc became the sole legal currency of the Saar Territory.<sup>58</sup> In his report to the Council

<sup>54</sup> Seventh Rept. Gov. Com., *op. cit.*, 625-627.

<sup>55</sup> Fourteenth Rept. Gov. Com., *L. N. O. J.*, 4th year, no. 7, 742.

<sup>56</sup> *L. N. O. J.*, 3d year, no. 3, 212-215.

<sup>57</sup> Thirteenth Rept. Gov. Com., *L. N. O. J.*, 4th year, no. 1 (Part II), 91.

<sup>58</sup> Fourteenth Rept. Gov. Com., *L. N. O. J.*, 4th year, no. 7, 741-742.

of the League, President Rault reviewed at length the economic and financial considerations that seemed to make the step imperative, contended that the action of the Commission was not in excess of its legal powers, and concluded with a statement of the advantages that would flow from it.<sup>59</sup>

Under the Treaty the Governing Commission had the power of taxation wholly in its own hands, although it was required to consult the elected representatives of the inhabitants before imposing a new tax (except customs duties), and levies on the mines and their accessories and subsidiaries must be fixed "with due regard to the ratio of the value of the mines to the total taxable wealth of the Basin."<sup>60</sup> The Commission during its first few months, therefore, had to rely upon the taxes already sanctioned in the Saar under German law, and it found its financial resources "notoriously inadequate."

The situation, then, seemed to call for the utilization of all available sources of revenue, and one important source was a 20 per cent coal tax chargeable at the pit head, a tax which the Germans had established before the armistice, and one which the Governing Commission admitted was applicable to the Saar.<sup>61</sup> It collected the tax, however, only to April 1, 1920, and then reduced it to 10 per cent, giving as its reason the desire "not to burden the Mining Domains with a contribution which might be out of proportion to the value which these represent in the total wealth of the Saar Basin."<sup>62</sup> The French government agreed to the tax as modified, after President Rault had gone to Paris and made representations to the Prime Minister, the Minister of Public Works, and the Administrative Council of the Mines of the Saar.

The German law providing for the coal tax expired on July 31, 1920, necessitating the consultation of the elected representatives of the inhabitants and the issuance of a decree in order to continue it.

<sup>59</sup> *Ibid.*, 742-750.

<sup>60</sup> Part III, Sec. IV, Annex, pars. 13-26.

<sup>61</sup> Second Rept. Gov. Com., *op. cit.*, 197.

<sup>62</sup> *Ibid.*, 198. The Commission had in mind and cited paragraph 13 of the Annex to Section IV of Part III of the Treaty which says: "The amount contributed by the mines and their accessories and subsidiaries, either to the local budget of the territory of the Saar Basin or to the communal funds, shall be fixed with due regard to the ratio of the value of the mines to the total taxable wealth of the Basin." It is questionable, however, whether that was meant to apply to an *indirect tax* on the *product* of the mines, a tax which normally would be shifted to the consumer. It would seem to have reference to direct property taxes. This raises the further question as to whether the Governing Commission was under any legal obligation to negotiate with France concerning the amount of the tax.

Accordingly the district assemblies and the Municipal Council of Saarbrucken were consulted, and they advised not only that the tax be continued but that the Commission should return to the 20 per cent rate. The Commission, in explaining its decision to return to the 20 per cent rate, said that it "could not ignore the unanimous wish of the elected representatives of the people, expressed with such particular emphasis"; that if it had refused to consider that advice of the assemblies "it would have made it difficult to obtain from these same assemblies an expression of opinion in favour of the establishment of new taxes which the Commission was bound eventually to submit to their approval."<sup>63</sup> There was, too, the additional reason—the serious shortage of revenue.<sup>64</sup>

In the meantime the Director-General of the French State Mines asked to be relieved of the task of collecting the tax, and the Commission decided to have it collected by the Railway Service. As a result of this decision, according to the view of the Commission, "the tax was no longer in the nature of a levy on the mines, and assumed the character of an internal tax." This put the Governing Commission "in a position to consider that paragraph 13 of the Annex, referred to above, was not applicable."<sup>65</sup>

Although it returned to the 20 per cent rate the Commission was careful to leave the door open in order that it might have a free path back to a lower rate at a later date. It remarked that the tax was of an "exceptional nature" and that "when the coal-market returns to normal conditions, it will be impossible to maintain it." It said further that a heavy tax on coal was as unsound as a heavy tax on wheat or flour, and that as soon as possible it would be reduced. Apprehension was felt that

the French Government may not be disposed to accept readily the principle of a tax, the major burden of which falls upon the French consumer of the coal extracted from the State mines, ceded to France in compensation for the destruction of the French mines of the North,

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<sup>63</sup> Fifth Rept. Gov. Com., *op. cit.*, 73-74.

<sup>64</sup> *Ibid.* A third reason may have been the desire of the French government. At any rate the writer was informed by an official that the policy of the French government at the time was to keep up the price of the other cheap reparation coals it was receiving, and that this could be the more easily accomplished by paying the 20 per cent tax on the *Saar* coal and thus have a reason for keeping its selling price high.

<sup>65</sup> *Ibid.* It is hard to understand how the fundamental character of the tax would be altered simply by having it collected by the Railway Service.

and it expects, therefore, that protests might be raised with regard to the rate of 20 per cent, on the ground that paragraph 13 applies to the coal tax.<sup>66</sup>

In its report of January 25, 1921, the Governing Commission more definitely foreshadowed the reduction of the coal tax:<sup>67</sup>

The Commission must reckon with a considerable reduction in the chief resource at its disposal—the tax on coal. If this tax is maintained at its present rate (20 per cent), it is likely to prevent the sale of Saar coal, and to create unemployment in the local mines and industries. The French Government has officially protested against the levying of this tax, and it would not hesitate to renew its protest if it had proof that the high rate of this tax was hindering the exploitation of the mines which it owns. The Governing Commission must therefore anticipate an important reduction in the tax. The Budget balance will thereby be irremediably upset.

On April 1, 1921, the coal tax was again reduced to 10 per cent and, for some reason not given, a return to the method of collecting the tax through the Mines Administration was adopted as from March 1.<sup>68</sup>

The coal tax remained at 10 per cent until August 1, 1922, and then, apparently at the instance of the French government, which was of the opinion that the tax represented "more than the contribution from the State mines provided in paragraph 13 . . . .," it was further reduced to 7.5 per cent for a period of six months.<sup>69</sup> At the expiration of this period (February 1, 1923) the tax was again reduced to 5 per cent. In the meantime the Governing Commission decided to refer the question of the application of the oft-cited paragraph 13 to a "Special Commission."<sup>70</sup> The subsequent periodical reports of the Governing Commission, however, do not reveal anything as to the composition or conclusions of this special commission. The question was eventually settled by negotiation with France, the Governing Commission apparently interpreting the Treaty as not giving it the power

<sup>66</sup> *Ibid.* According to figures in the writer's possession furnished him by an official of the Mines Administration, 35.6 per cent of the Saar coal output of 1922 was consumed in the Saar, and 41.8 per cent was consumed in France and Luxembourg. The remaining 22.6 per cent went to Germany, Switzerland, Italy, Austria, and Hungary. Thus the French consumer paid not more than two-fifths of the tax.

<sup>67</sup> Sixth Rept. Gov. Com., *op. cit.*, 203.

<sup>68</sup> Seventh Rept. Gov. Com., *op. cit.*, 628. According to the reasoning of the Governing Commission already noted (p. 80) this would give France the opportunity to claim that paragraph 13 of the Annex to Part III, Sec. IV of the Treaty was again applicable to the tax.

<sup>69</sup> Thirteenth Rept. Gov. Com., *op. cit.*, 101.

<sup>70</sup> Fourteenth Rept. Gov. Com., *op. cit.*, 752.

of independent decision.<sup>71</sup> In conclusion it may be noted that the Governing Commission and the French government agreed that for purposes of calculating the contribution of the State Mines to the budget of the Territory their value, *together with their accessories and subsidiaries*, was estimated to be 346 million gold marks.<sup>72</sup>

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<sup>71</sup> It will be recalled that the Treaty appears to give the Governing Commission power to decide all questions arising from the interpretation of the provisions of chapters 1 and 2 of the Annex to Sec. IV of Part III. This applied to paragraph 13. That the negotiations were at least in part concerned with the interpretation of paragraph 13 is indicated by the following: "The Governing Commission, after carefully considering the question of the application of paragraph 13, decided to settle the matter by negotiating with the French Government. . . ." (Seventeenth Rept. Gov. Com., *L. N. O. J.*, 5th year, no. 8 [Aug. 1924] 1051).

<sup>72</sup> Seventeenth Rept., *op. cit.*, 1051. The German government in 1920 put forward a claim of 1,057,000,000 gold marks as credit for the Saar mines. The French replied with an estimate that they were worth 300,000,000 gold marks. (*A League of Nations*, V (1922), no. 2, *Reparation*, Part II, 129.) Two American economists who have made a detailed study of the reparation question consider 650 millions (of gold marks) as "a low value to Germany in 1919—a value naturally much less than they would have had after the loss of the Silesian mines." (Moulton and McGuire, *Germany's Capacity to Pay*, 346.)

## CHAPTER V

## ISSUES BETWEEN THE GERMANS AND THE GOVERNING COMMISSION

It has perhaps been made evident in the preceding chapters that not only did the Governing Commission come into being under circumstances that made the establishment of cordial relations between it and the people it was to govern very difficult, if not impossible, but that the Treaty provisions and the Commission's interpretation of its powers and obligations were in many instances of such a nature that they could scarcely inspire confidence and insure cooperation on the part of the Germans. The range and extent of the opposition to the Governing Commission and its policies has in fact been quite remarkable and indicative of the vitality of German nationalism<sup>1</sup>

There are many counts in the German indictment of the Governing Commission. From the point of view of the Germans the Council of the League of Nations made some unfortunate appointments to the Governing Commission in the first instance. The French, Danish, and Belgian appointees to the Commission they regarded as French in their sympathies and as unqualified for their posts. The French member was charged with having openly pronounced in favor of French annexation of the Saar at the time of the Peace Conference, and was regarded as otherwise unfit because he neither spoke or understood the German language.<sup>2</sup> His appointment as Chairman of the Commission was especially deplored. The long residence and affiliations of Count Moltke-Huitfeldt in Paris prior to his appointment on the Commission caused him to be classified as "an entirely Frenchified Dane. . . ." The French bias of Major Lambert, the Belgian, was from the first taken for granted. Thus the Germans felt that the

<sup>1</sup> With all the economic and financial difficulties taken into account it is still probably true that the economic lot of the people of the Saar under the present régime has been better than that of their kinsmen in Germany. The German leaders, however, insist that the Saar can never know economic prosperity except as a part of Germany.

<sup>2</sup> Shücking, L. L., "The Unfortunate Saar District," *New Statesman*, XIX (May 27, 1922), 203-204.

"composition [of the Governing Commission] was the root of all evil,"<sup>3</sup> for a majority of its members instead of being neutral, as the Treaty intended,<sup>4</sup> were supporters of France.<sup>5</sup>

The policy of the Governing Commission concerning the status of the officials of the Territory caused intense dissatisfaction.<sup>6</sup> Indeed it was the immediate if not the underlying cause of a strike of the public officials on the 16th of August, 1920.<sup>7</sup> The grievances of the officials had reference particularly to the method of selection, discipline, and dismissal adopted by the Governing Commission.<sup>8</sup> The introduction of foreigners as heads of services was considered unjustifiable, the right to dismiss German officials whose loyalty was doubted by the Governing Commission was contested, and the non-representative character of the Disciplinary Councils set up by the Governing Commission was a cause of dissatisfaction. Furthermore, the officials claimed the right to belong to any organization they desired, and the Governing Commission ruled that its permission was necessary before they might belong to associations outside the Territory.<sup>9</sup>

The Governing Commission regarded the strike, however, as something more than a protest on the part of the officials over the grievances mentioned. In his report of October 25, 1920, President Rault said:<sup>10</sup>

The strike of public officials was in the nature of an offensive, prepared long beforehand, with the object of destroying the authority of the Governing Commission and of proving that the régime pro-

<sup>3</sup> "French Policy in the Territory of the Saar Basin," p. 3. (An anonymous propaganda leaflet presented the writer by one of the German leaders in the Saar. Hoover War Library, Stanford University.)

<sup>4</sup> See memorandum of the Political Parties and their Representatives in the Consultative Council of the Saar Basin: "The Spirit of the Saar Statute and the execution of the same by the Governing Commission," p. 1. Hoover War Library, Stanford University.

<sup>5</sup> The Commission needed only a majority to reach decisions (Treaty, Part III, Sec. IV, Annex, pars. 19, 33).

<sup>6</sup> *Supra*, 155-157 for brief treatment of general aspects of the Commission's Policy.

<sup>7</sup> President Rault gave a complete account of the strike in a confidential report to the League on the 18th of August, 1920. The report is now in the Hoover War Library. The German view of the strike may be found in the *Berlinger Tageblatt* of August 20, 1920, morning edition. See also German White Book, 152-216 for numerous documents pertaining to the strike and the measures taken in connection therewith by the Governing Commission and by the commander of the French troops in the Saar.

<sup>8</sup> See *Amtsblatt*, no. 1 (17 April, 1920), doc. no. 10 and no. 8 (August 1920), no. 116 for texts of decree of March 16, 1920, and Public Official Statute of July 29, 1920.

<sup>9</sup> Confidential Report by President Rault of August 18, 1920.

<sup>10</sup> *L. N. O. J.*, no. 8 (Nov.-Dec. 1920), 69-70.

vided by the Treaty of Peace for the administration of the Saar Territory could not be established. The strike was intended to deprive the Governing Commission of the cooperation of all its officials, to reduce it to impotence and to prove that a Government established by the League of Nations in pursuance of the Treaty of Versailles would not be able to survive.

The Governing Commission could not brook such a challenge to its authority. Accordingly President Rault declared a state of siege, placed the police under the command of the military, requisitioned the services of the railway employees, and obtained from the French army of the Rhine a Field Railway Company, in order to insure uninterrupted train service through the Saar. At the same time, in order to prevent the strike from spreading to the miners and metal-workers, President Rault undertook the task of enlightening the unions "as to the true cause of the strike."<sup>11</sup>

In the meantime General Brissaud-Desmaillet, commander of the troops in the Saar, considered it necessary to expel "about 100 notorious Pan-Germans, whom he considered capable of fostering agitation, almost all of whom were Germans foreign to the Territory." Public meetings were prohibited, censorship of the press was established, and two newspapers were suspended for having published articles without the permission of the General.<sup>12</sup>

The strike ended on August 14, the officials publishing a manifesto at the same time that their act was not to be interpreted as an acceptance of the Governing Commission's position. A general 24-hour strike also took place at the last as an expression of sympathy for the officials on the part of the workers of the Territory, and as a protest against the action of the Governing Commission. The Commission congratulated itself, however, on the success of its resolute policy:

If the Commission had not adopted such a firm attitude, disorders would have resulted, the Commission would have lost all prestige with the population, and its success would have been irretrievably compromised.

Now, on the contrary, it is reaping the benefit of its firmness. It sees, more clearly than could have been imagined so soon after the crisis, how right its tactics were, and how excellent the results have been. Never has the Territory been so tranquil, nor the public mind so calm.

<sup>11</sup> Confidential Report of August 18, 1920, from President Rault to League.

<sup>12</sup> *Ibid.* See also German White Book for texts of proclamations of General Brissaud-Desmaillet and the Governing Commission, and other measures adopted, esp. documents 125, 128, 131, 132, 135, 140.

Having won the victory the Governing Commission was disposed to be generous. President Rault revised the list of expulsions ordered by the military authorities and removed many names. General Brissaud pardoned a number of persons who had been sentenced to court-martial. The Governing Commission decided to pay the officials and workers in the public services for the days during which they were on strike, although it "was obliged to send back to their former governments several officials, especially on the fiscal and railway staffs, who continued their dangerous agitation."<sup>13</sup>

The Governing Commission was aware, however, that to defeat an adversary does not mean necessarily that one has convinced him, for M. Rault remarked toward the end of his report on the subject:

While congratulating itself on the pacification which has been referred to, the Governing Commission does not indulge in undue optimism. It knows that this conciliatory attitude is not equally profound and sincere on the part of all the inhabitants, in particular among all the officials, and it is unaware that instructions from outside may to a certain extent change the situation.

These "instructions from outside" were apparently not long deferred for in its next report the Governing Commission referred to a confidential circular, issued by the Imperial Minister of the Interior, which had come into its possession as well as into the hands of officials of the Territory for whom it was intended. This circular was said to provide that officials in the Saar remained "German officials" and that as such they would be promoted by the German government independently of the Governing Commission; that their oath of allegiance to the Commission was not to affect their status in regard to Germany; that disciplinary action by the Commission's Councils was void; that special advantages would be secured to the officials by the German government.<sup>14</sup> The Prussian and Bavarian governments distributed circulars to the same effect, which "proved that the German governments are secretly interfering in the government of a territory the administration of which they renounced for fifteen years by the signature of the Treaty of Versailles."

The German government, on the other hand, protested to the League about the measures taken by the Governing Commission and the military authorities during the strike of August, 1920. The

<sup>13</sup> Fifth Rept. Gov. Com., *op. cit.*, 70-71.

<sup>14</sup> Sixth Rept. Gov. Com., *op. cit.*, 206-207.

expulsions of this period were condemned as contrary to the laws in force in the Saar concerning liberty of movement and residence. The German government took the position that even a state of siege could not justify the expulsions from the Saar Territory; however, the Governing Commission had extended its decrees to cover the occupied Rhine provinces as well, although the latter were outside its jurisdiction. The transfer of executive powers to a French general was likewise incompatible with the provisions of the Treaty of Versailles, which call for the maintenance of order by means of a local gendarmerie only. The duty of the Governing Commission was to protect the population of the Saar and its liberties; the expulsions, often carried out with great severity, were contrary to that duty.<sup>15</sup>

In the meantime, however, the officials took the oath of loyalty to the Governing Commission and accepted the Statute of July 29, 1920, the promulgation of which was the occasion for the strike of August. This settled the question for the officials, but it would be a mistake to suppose that, from the point of view of the Germans, the question was settled satisfactorily, and above all the fact that French officials occupy most of the important administrative posts is keenly resented.<sup>16</sup>

The decision of the Governing Commission to intrust the protection abroad of the interests of the inhabitants of the Saar to France<sup>17</sup> has been another ground for complaint on the part of the Germans. Under date of January 8, 1923, the German government addressed a letter to the League in which it emphasized certain practical difficulties resulting from the arrangement as well as questioned its legality.<sup>18</sup> It pointed out that under the terms of the Treaty the existing nationality of the inhabitants of the Saar is to remain unaffected. By the decision of the Governing Commission, however, the interests of German nationals are to be safeguarded in foreign countries by France.

Certain practical difficulties have consequently arisen. When an inhabitant of the Saar ceases to be an inhabitant "he no longer comes under the provisions of paragraph 21 and the question as to which Government is responsible for protecting his interests abroad can only

<sup>15</sup> *L. N. O. J.*, 2d year, no. 7, 686.

<sup>16</sup> According to figures furnished by President Rault there were in August, 1923, the following non-German high and intermediate officials in the Saar: *High officials and Judges of the Supreme Court of the Territory*—16 French, 5 Swiss, 3 Belgians, 2 Luxemburgers, 1 British, 1 Hollander, 1 Czechoslovak. *Intermediate Officials*—12 French, 1 Swiss, 1 Pole (*L. N. O. J.*, 4th year, no. 9, 1064).

<sup>17</sup> *Supra*, 153–154.

<sup>18</sup> *L. N. O. J.* 4th year, no. 4, 412.

be decided on the ground of his nationality." As a result of the many ties uniting the inhabitants of the Saar "to the rest of Germany" changes of residence from the Saar to other parts of Germany are frequent. "Under present conditions such a change of residence leads to a change in the authority responsible for the protection abroad of the interests of the persons affected, and therefore operates in the same manner as a change of nationality." In such circumstances many embarrassments naturally occur. A person may have to have his interests abroad safeguarded first by the German government and then by the French government, or vice versa. When the protection abroad of the interests of a national with respect to a particular matter extends over a period of several years the difficulties are aggravated.<sup>19</sup> Other difficulties were pointed out:

Moreover, the German Government has observed that when Saar inhabitants who are German nationals are staying in a foreign country and require diplomatic or consular protection in any matter whatever, they normally apply to German diplomatic and consular agents. In view of their German nationality they hesitate to claim the assistance of French representatives, whose language they frequently do not speak or understand. The German diplomatic and consular agents cannot compel such persons to apply to the French authorities and, moreover, feel bound to help them, since they cannot leave German nationals wholly without protection and assistance in a foreign country. But should they come to the assistance of these persons, their action may easily lead to difficulties later. If, for example, a German who is domiciled in the Saar Territory and who, while staying in a foreign country, finds himself without resources, receives an advance from a German consulate, and if an attempt is made subsequently to recover the sum from the borrower or his relatives, the Governing Commission refuses to lend its assistance on the ground that the matter ought to have been dealt with by the French authorities. . . .

On a final analysis, these difficulties must be ascribed to the fact that the power of protection is not determined by the permanent legal relationship or nationality but by the circumstances whether a person is or is not an inhabitant of certain territory, by a criterion therefore which is much less stable and is wholly unknown in international relations.

The Governing Commission, in its reply, held that the German proposal that the inhabitants of the Saar should be protected by the authorities of the State of which they were nationals "would involve handing back the German inhabitants of the territory to German protection, that is to say, it would mean the re-establishment, as regards

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<sup>19</sup> *Ibid.*, 412-413.

these persons, of the situation which existed before the Treaty of Versailles, and therefore, in this respect, the abrogation of the Treaty."<sup>20</sup> The allegations of "practical difficulties" by the German government were denied point by point and the Commission reached the conclusion that it saw no reason to change its previous decision.<sup>21</sup>

The Germans, however, have not ceased to protest. Indeed the matter received a good deal of attention in the series of grievances cited by the political parties of the Saar on June 2, 1923. They asserted that France had failed to protect the interests of the Saar Basin in foreign countries and that as a matter of fact "the very disputes which required an energetic defence of Saar interests abroad were almost entirely those with France." The situation, therefore seems to be that while the Governing Commission sees no reason for changing its previous decision, the Germans see no reason for changing the opinion they have held from the first, i.e., that the decision was prejudicial to the interests of the Saar.

The Governing Commission's policy of benevolent neutrality toward the franc, which finally developed into decisive support of that imported currency in its winning battle against the mark,<sup>22</sup> inevitably provoked further distrust and hostility on the part of the German government and the leaders in the Saar. Who could say, after all, whether the franc, with its greater purchasing power, might not help to seduce the Sarrois with the material "satisfactions" envisaged by M. Gallois?<sup>23</sup> At least there is reason to surmise that this fear lay concealed behind the protests of illegality and the economic arguments set up to bar the franc's progress in the Saar.

The Governing Commission was criticized by the political parties of the Saar<sup>24</sup> first of all for its failure to consult the elected representatives of the people before introducing the franc into the public services. This was all the more serious, the Germans said, in view of the damage done by the introduction of the franc into the Saar. The Governing Commission's contention that officials and workers had asked to be paid in francs was disposed of as follows:

The Government's action in introducing the franc is not to be justified by reason of the fact that it was petitioned for, or by the absence

<sup>20</sup> *Ibid.*, 413 for letter of the Chairman of the Governing Commission to the Secretary-General of the League.

<sup>21</sup> *Ibid.*, 414.

<sup>22</sup> *Supra*, 161-163.

<sup>23</sup> *Infra*, 187.

<sup>24</sup> Memorial of the Political Parties of the Saar to the League of Nations (Osborne, S., *The Saar Question*, Appendix S).

of protests against its introduction. Whatever the attitude of the people toward the introduction of the franc may have been, the situation was created by the Government's refusal to grant necessary increases of wages and salaries in marks. . . . In the railway service it introduced the franc, although 71 per cent of the Railway employes voted against it, and the chosen representatives of the traffic interests very strongly opposed it. The Saar Economic Council, an official economic body representing the Saar population . . . took a decided stand against the franc in a resolution adopted May 28, 1920.

The German government, in the course of a protest against the action of the Governing Commission, argued that the introduction of the franc into the public services was a violation of the Treaty. The Governing Commission, in turn, found a complete legal justification for what it had done, and presented a legal case based on the provisions of the Treaty.<sup>25</sup> The later action of the Commission providing that the franc should henceforth be the sole legal currency in the Saar,<sup>26</sup> served, of course, only to deepen the distrust harbored by the Germans against the Governing Commission.<sup>27</sup>

Perhaps none of the policies of the Governing Commission has met with more suspicion than those relating to education.<sup>28</sup> The narrow scrutiny by the Germans of everything which pertains to education in the Saar is, of course, natural in view of the fact that most of the children attending the schools will be voters in 1935.<sup>29</sup> They must therefore be vigilantly shielded from French influences and the German cultural inheritance passed on to them. This, as the Germans see it, can only be assured by maintaining the German language and opposing doubtful educational innovations.

On January 18, 1923, the German government wrote to the League concerning the situation with regard to public education in the Saar, claiming that the Governing Commission had adopted measures in connection therewith that were in violation of the Treaty of Versailles. It pointed out that according to the Treaty (paragraph 28 of the Annex to Articles 45–50) the inhabitants of the Saar were to retain their schools and language, and that consequently "the fundamental

<sup>25</sup> *L. N. O. J.*, 2d year, no. 7, 688–689.

<sup>26</sup> *Supra*, 162.

<sup>27</sup> The German leaders, if not the rank and file, saw that the victory of the franc would tend powerfully to draw the Saar into the French sphere of influence.

<sup>28</sup> *Supra*, 159–161. See also German White Book, chap. 15, "Schule und Sprache" for documents selected by the German Government relating to this question.

<sup>29</sup> *Infra*, 184.

principles governing the school organization at the time of the coming into force of the Versailles Treaty must be maintained; that the Governing Commission is under a special obligation to ensure the maintenance of those principles; and that it must refrain from making any fundamental innovations or modifications in this branch of the administration.”<sup>30</sup> It argued further that, although the Commission was empowered (paragraph 23) under certain circumstances to alter existing legislation, it was restricted in matters of school administration since paragraph 28 “requires the maintenance in all circumstances of the fundamental principles governing the existing system.”

The German government asserted that nevertheless the Governing Commission was pursuing a policy aiming at a fundamental modification of the entire school system; that it had introduced innovations and “made experiments of all kinds” that were of questionable value from an educational standpoint. Referring to the decrees of the Commission enabling not only the children of the German miners, but also the children of other persons not connected with the mines to attend the schools of the French State Mines<sup>31</sup>—measures about which the elected representatives of the inhabitants were not consulted—the letter went on to say:<sup>32</sup>

These decrees have enabled the administration of the French State Mines to found schools in several places in the Saar Territory and to attract children of the native German population by all kinds of privileges such as the national schools cannot offer, for instance: pocket money, free school outfits and clothes, Christmas presents, favorable treatment of parents who send their children to the French schools and detrimental treatment of those who refuse to do so, less severe discipline, great laxity in case of non-attendance, promises of rewards to individual children if they induce other children to attend the French schools, etc.

With reference to the Governing Commission’s reliance on the provision of the Treaty (paragraph 14) giving the French State the right to establish schools in the Saar “as incidental to the mines” the German government said:<sup>33</sup>

As this provision stipulates for instruction to be given in the French language in accordance with French curricula and, in particular, according to the wishes of the French State, it can only apply to French children. This is the only possible explanation of the fact

<sup>30</sup> *L. N. O. J.*, 4th year, no. 4, 414–416 contains the text.

<sup>31</sup> *Supra*, 159–160.

<sup>32</sup> *L. N. O. J.*, 4th year, no. 4, 415.

<sup>33</sup> *Ibid.*, 416.

that the French State, which is only entitled to exploit the coal mines, has been given any right at all as regards education in the Saar Territory, and in particular as regards instruction in the French language. . . . It is not without reason that the provision contained in paragraph 14 is not included, like the one contained in paragraph 28, in the chapter headed "Government of the Territory of the Saar Basin," but in that headed "Cession and Exploitation of Mining Properties," and that French schools are only permissible "as incidental to the mines."

The German government, therefore, demanded that the public school system be restored to its former state, that French children only be allowed to attend the French schools, and that "such French schools as are not primary or technical schools be abolished."<sup>34</sup>

The political parties of the Saar also charged in their memorial to the Council of the League on June 2, 1923, that the Governing Commission had attempted to interfere with their religious liberties.<sup>35</sup> On this point they remarked:

For over a century, the Catholics of the Saar Basin have been under the Bishops of Trier and Speyer and are devoted to their spiritual shepherds. Nevertheless the Governing Commission attempted by an application to the Vatican in Rome, to tear the Saar Basin from the dioceses to which it belongs, but in vain. The attempt to make the Protestant congregations and clergy of the Saar Basin dependent upon the Governing Commission failed also owing to the tough resistance of all concerned.

Another cause of complaint was the decree defining the term "inhabitant of the Saar Territory."<sup>36</sup> Before the decree was finally adopted the Governing Commission submitted it to the local assemblies for their opinion. The latter opposed the decree on several counts, one of them being, according to President Rault, "that henceforth German nationals who have not acquired the status of inhabitants of the Saar Territory will be considered as aliens within its boundaries." From the point of view of the Governing Commission however, this was "only an inevitable consequence of the provisions of the Treaty

<sup>34</sup> *Ibid.* The answer of the Governing Commission was made in a letter dated March 8, 1923, to the Secretary-General of the League (*ibid.*, 417-420). Aside from denying that pressure was being used to get German children to attend the French schools, and taking issue with the legal argument of the German Government, it added little to what has already been noted on pages 159-160.

<sup>35</sup> The Spirit of the Saar Statute and the execution of the same by the Governing Commission." (Hoover Collection.) *Supra*, 157-159.

<sup>36</sup> *Supra*, 157-158 for the action of the Governing Commission and its position on the question.

of Peace.' President Rault also pointed out that the decree did not endanger the nationality of the German inhabitants of the Saar, nor did it prejudice the rights of persons allowed to take part in the plebiscite of 1935—points that troubled the local assemblies.<sup>37</sup> The Commission, therefore, finally adopted the decree in spite of the opposition of the local assemblies.

The Saar leaders, nevertheless, were irreconciled to the decree, contending that it resulted in “an important diminution in the rights guaranteed to the Saar inhabitants by the Treaty of Peace, in favour of immigrating foreigners.”<sup>38</sup>

In every memorial and protest of the Germans against the Governing Commission the underlying complaint has been the autocratic attitude and procedure of the Government. In this connection two sets of grievances have been urged—that the method employed by the Governing Commission in consulting the elected representatives of the inhabitants has been unsatisfactory, and that it has too frequently not consulted them at all or has disregarded their advice. The Treaty requirement that the Governing Commission must, in certain cases, consult “the elected representatives of the inhabitants in such a manner as the Commission may determine” gave the Commission full power in the matter. It could choose one of two feasible alternatives—consult the various local assemblies, or set up a general assembly for the Saar Territory.

The Commission decided, in the first instance, to call elections for the local assemblies<sup>39</sup> and seek the necessary advice from them. The reasons for this decision and the reception accorded it in the Saar were given by the Commission as follows:<sup>40</sup>

The Governing Commission came, however, to the unanimous conclusion that the moment was not opportune for summoning a General Assembly. It seemed more practicable, as well as more in accordance with the spirit of the Treaty, to summon the District Assemblies and the Municipal Council of Saarbruck, which fulfils, for the city of Saarbruck, all the duties of a District Council, and to invite them to

<sup>37</sup> Eighth Rept., *op. cit.*, 842.

<sup>38</sup> S. Osborne, *The Saar Question*, Appendix S for memorial of the Political Parties in the Saar. See also summary of the protest of the German government under date of August 23, 1921, and answer of the Governing Commission (*L. N. O. J.*, 3d year, no. 2, 126–127).

<sup>39</sup> *Supra*, 146. These local assemblies were: the Saarbruck Municipal Council, five Parish Councils (for districts formerly Prussian) and two District Councils (for districts formerly Bavarian).

<sup>40</sup> Fifth Rept. Gov. Com., *op. cit.*, 69.

give their opinions on the proposals submitted to them by the Government. Certain political parties regretted this decision and demanded the immediate summoning of a Parliament of the Saar. In view of the state of feeling among a portion of the population, and the openly-expressed determination of some of their spokesmen not to agree to any collaboration with the Government, the Commission could not but dismiss this appeal. It awaits an opportunity of examining, at a later date, under what conditions it will be possible for the Commission to constitute an Assembly whose advice may be of service to it.

The Commission seemed to think, however, on the basis of its first experience in the use of the method of consulting the local assemblies that the procedure was "sufficiently expeditious and that its application presented no difficulties, while it enabled the Government to keep itself accurately informed as to the wishes and feelings of the population."<sup>41</sup>

The German leaders in the Saar were of a different opinion. They complained that "the views of the elected representatives of the people are not only ignored, but the fact that eight governing bodies confer separately makes it impossible to judge the situation understandingly"<sup>42</sup> They felt that a "clear comprehension of public opinion and the working together of the Government and the population to the welfare of the Saar Basin can only be obtained by establishing a parliament representing the people." The District Councils themselves were insistent on the matter and finally threatened to refuse to examine any proposals put before them by the Governing Commission unless the latter should accede to their request.<sup>43</sup>

The Commission stated that it could not agree with the request for a parliament, for the following reasons:

If the Treaty of Peace had intended that an organ of government with such important duties should be created, this intention would have been stated in definite terms. Moreover, even if the exact wording of the Treaty is not to be rigidly adhered to, it will be recognized that the régime instituted in the Saar Basin is hardly compatible with the existence of a Parliament. The Governing Commission, in fact, possesses all the powers of government which formerly belonged to the German Empire, to Prussia and to Bavaria; it therefore possesses the powers of the German Reichstag, and the Prussian and Bavarian Diets. The Governing Commission, in virtue of paragraph 23, "decides upon and puts into effect" all modifications in legislation. It has,

<sup>41</sup> *Ibid. Infra*, 180, for its later viewpoint.

<sup>42</sup> Osborne, S., *The Saar Question*, Appendix S, 370.

<sup>43</sup> Tenth Rept. Gov. Com., *op. cit.*, 232.

therefore, powers which are essentially legislative. Would there not be reason to fear serious disputes if a Parliament were created side by side with the Governing Commission?

Moreover, the Governing Commission is responsible to the Council of the League of Nations. How could it be answerable at the same time to a Parliament, which it would have to be according to the principle that ministerial responsibility is the essence of a parliamentary régime?

Finally, it must not be forgotten that the Saar Basin is a plebiscite territory. An international Government with exceptionally extensive powers placed above all parties and all currents of opinion was established in order to permit the inhabitants to give free expression to their wishes in 1935. The whole object of the régime established by the Treaty of Peace for the period preparatory to the plebiscite would be defeated if an elected Parliament were set up side by side with the Government.

In the meantime the local Assemblies adopted the policy of refusing to consider draft decrees submitted to them by the Governing Commission, the Germans asserting that the Governing Commission paid not the slightest attention to their advice unless it happened to coincide with its wishes.<sup>44</sup> Finally on March 18, 1922, at a conference of the leaders of the principal political parties of the Saar, including the representatives of the local Assemblies, a resolution was drawn up calling for the creation of a popular assembly which should have "full rights of participation in the government."<sup>45</sup> "German nationality" was mentioned as a qualification which must be possessed by candidates for election to the assembly and by the voters.<sup>46</sup> To meet one of the objections raised by the Governing Commission to the establishment of such a parliament, it was further proposed that in the event of differences of opinion between the Governing Commission and the parliament the dispute should be referred to the League of Nations for final settlement.

The Governing Commission finally capitulated on the issue of eight local assemblies versus one general assembly. It informs us, however, that the capitulation was to that universal teacher, Experience, rather than to the demands of the Germans.<sup>47</sup>

<sup>44</sup> See, however, Tenth Rept. Gov. Com., *op. cit.*, 232-234, for explanation and denial of the charge.

<sup>45</sup> *L. N. O. J.*, 3d year, no. 5, 457-458 for text of resolution.

<sup>46</sup> *Ibid.*, 457. Thus to have the status of "inhabitant of the Saar Territory" would not be sufficient.

<sup>47</sup> Eleventh Rept. Gov. Com., *op. cit.*, 459-460.

Experience has shown that these Assemblies were too numerous and that their members as a general rule were not competent to consider with any advantage the draft decrees submitted to them. Again—and this consideration the Governing Commission regarded as decisive—it was in practice impossible to send to each Assembly a representative of the Governing Commission to present the documents which they were asked to consider, to supply all the appropriate information and explain the aims of the Commission.

But what of the Treaty? In 1920 the Governing Commission was of the opinion that if the Treaty had intended that a parliament should be created in the Saar it would have stated it in definite terms.<sup>48</sup> It was probably of the same opinion in 1922, for it did not speak of a *parliament* but said: "It appeared that there was nothing in the Treaty of Peace to prevent the constitution of a single Assembly for the whole Saar Territory."<sup>49</sup>

The Governing Commission decided, therefore, to create an advisory council composed of thirty representatives elected by the Territory as a whole for a three-year term; and to grant the right to vote for members of this advisory council to all persons more than twenty years of age who could claim the status of "inhabitants of the Saar."<sup>50</sup> The qualifications for a seat on the advisory council were: Persons must be more than twenty-five years of age, and must be *native inhabitants* of the Territory "who do not fill any elective or public post outside the Saar Territory. . . ." The Chairman was to be appointed by the Governing Commission from among the inhabitants of the Territory.

The competence of the advisory council was limited to the consideration in an advisory capacity of such proposals as the Governing Commission should submit to it under the stipulations of the Treaty.<sup>51</sup> The advisory council was to be convened by the Chairman of the Governing Commission, was to meet at least every three months, and was to be presented at the time of its convocation by the Chairman of the Governing Commission, with the agenda to which it must confine itself. Any discussion on other subjects was to be considered null and void. "In particular, all discussions, motions, or resolutions tending either directly or indirectly to affect the legal situation created in

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<sup>48</sup> *Supra*, 178.

<sup>49</sup> Eleventh Rept. Gov. Com., *op. cit.*, 460.

<sup>50</sup> *L. N. O. J.*, 3d year, no. 5, 415.

<sup>51</sup> Under par. 23 and 26 of chapter 2 of the Annex to Section 4, Part III.

the Saar Territory by the Treaty of Peace of Versailles or by the subsequent decrees of the Governing Commission shall be null and void. . . .”<sup>52</sup>

The Commission having decided that it was legally justified in creating one body representing the entire Saar Territory concluded that it was expedient to establish a second one—a technical committee “to provide the inhabitants with the possibility of taking an interest in administrative, political and financial matters in which, according to the terms of the Treaty of Peace, the representatives elected by the people are not called upon to take a part.”<sup>53</sup> This technical committee was to consist of “a small number of persons, native inhabitants of the Saar Territory, qualified by their experience and acquaintance with local conditions to assist the Governing Commission in a technical capacity in all matters which the latter may see fit to refer to it.”<sup>54</sup> The members of the technical committee and its chairman were to be appointed for one year by the Governing Commission.<sup>55</sup>

The decree establishing the advisory council and technical committee, far from appeasing the Germans, was bitterly attacked by the newspapers and political parties in the Territory.<sup>56</sup> For a time it seemed likely that the political parties would abstain from taking part in the elections, but eventually they decided to participate. At the first meeting of the advisory council after the elections were held, all the political parties represented utilized the occasion to review their grievances against the Governing Commission and state the price of their cooperation with it.

There was, apparently, general agreement with the statement of the spokesman of the Center Party that the decree providing for the advisory council “limits our political rights much more strictly than does the Treaty of Versailles.” There was also a general demand that the advisory council be given the right to put questions, to present grievances, and to participate in the drawing up of the agenda for its meetings. Other demands were for the right of initiative, and parliamentary immunity. Strong protests were voiced against the appoint-

<sup>52</sup> Quoted from article 8 of the decree establishing the Advisory Council and Technical Committee (*L. N. O. J.*, 3d year, no. 5, 416).

<sup>53</sup> Quotation from Eleventh Report of the Governing Commission (*L. N. O. J.*, 3d year, no. 5, 461).

<sup>54</sup> *Ibid.*

<sup>55</sup> See articles 11, 12, and 13, of decree establishing the Advisory Council and the Technical Committee (*L. N. O. J.*, 3d year, no. 5 (416)).

<sup>56</sup> Twelfth Rept. Gov. Com., *L. N. O. J.*, 3d year, no. 8 (part 1), 768.

ment of the Chairman of the Advisory Council by the Governing Commission, and against the ineligibility to seats in the Advisory Council of Germans not born in the Saar. The Social Democratic Party protested also "against the establishment of a Technical Committee—an anti-democratic institution—the object of which is to discount in the eyes of the world the wishes expressed by the elected representatives of the Landesrat (Advisory Council)."<sup>57</sup>

The occasion was used also for the purpose of drawing attention to old grievances which had not been remedied. As stated by the representative of the Center Party, the chief aims of the complainants were to secure: "the withdrawal of the French troops; the abrogation of the decree defining the status of a Saar inhabitant; the abolition of the French schools in their present form; the withdrawal of the foreign officials in the service of the Saar administration; in short, a complete reversal of the Frenchifying policy which has been followed hitherto." The condition upon which the Center Party would cooperate with the Governing Commission was the fulfillment by the latter "in a spirit of strict neutrality the mission entrusted to it by the League of Nations, 'To have no duty and no interest other than the welfare of the Saar Territory.' " The Social Democratic Party laid down a like condition:

The indispensable condition for the cooperation of the Social Democratic Party is that the Governing Commission should cease to follow the French annexationist policy, which leads it openly to propose to transform the Saar Territory, in 15 years, into a country politically and intellectually ripe for annexation to France.

Dr. Scheuer, speaking for the Democratic Party, was likewise of the opinion that "no cooperation can serve any useful purpose unless the Governing Commission completely changes the policy which it has hitherto pursued. This policy, the sole aim of which was to separate the Saar Territory from its mother country, has produced a deep sense of disappointment in the people of the Saar." The spokesmen of the other parties expressed similar sentiments. Thus the "new era" in the relations between the Governing Commission and the Saar inhabitants was not ushered in with the creation of the advisory council. Indeed the use to which the occasion of the first meeting of that body was put indicated rather that the old struggle was likely to go on,

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<sup>57</sup> See *L. N. O. J.*, 3d year, no. 9, 1046–1052 for translated texts of the declarations of the several political parties.

the Germans simply utilizing a new piece of machinery, in so far as it might be serviceable, to aid them in the fight.<sup>58</sup> The majority of the members of the Governing Commission, on the other hand, regarded the German position as untenable and as dictated by a desire to escape the responsibilities of the Treaty.

<sup>58</sup> In this connection the following excerpt from the report on the Saar by the French Commission sent into the Rhineland in 1922 is of interest. Referring to the creation of the Advisory Council, it remarked: Undoubtedly this Consultative Council can, on pain of nullity, deliberate on no other objects than those which, by the application of paragraphs 23 and 26 of chapter II, of the annex to section 4 of the Peace Treaty, should be submitted for the advice of the elected representatives of the inhabitants.

"Undoubtedly all deliberations, motions, or resolutions tending either directly or indirectly to do injury to the legal conditions created by the Peace Treaty of Versailles or to subsequent ordinances of the Governing Commission will be null and void.

"But can one prevent an elected assembly, on pain of nullity, from passing resolutions, from bringing them to the attention of public opinion, of opinion in the Saar, in Germany, in the Allied countries? . . . Who will prevent these people, if they throw down the gage, from giving to the elections the air of a plebiscite, and, under the modest pretext of choosing a consultative assembly, interrogating the people of the Saar concerning their destinies? And if, instead of taking refuge in abstention, the German caucuses put at the head of their programme this fidelity to the cause of the Reich, what means will there be of opposition to their propaganda and its pernicious results?

"After all, what imperious necessity was there, under the pretext of rendering closer the collaboration of the Rhenish populations with the Governing Commission, to provoke a premature popular consultation, in advance of the expiration of the fifteen years prescribed by the Peace Treaty (par. 34 of the annex to section 4)? . . . It looks like creating difficulties for no reason. The elections are to take place on a single list for the whole country. It is no piecemeal consultation by districts, in which it is possible to avoid a great current of opinion, to split it up in some way. The whole of the people of the Saar is going to vote for competing lists. One of them may have an absolute majority. It is precisely a plebiscite to which we are committed. If it turns out well, what a success! But if the German candidates carry the day, what a set-back!"—(Manchester *Guardian*, March 5, 1923.)

## CHAPTER VI

THE PLEBISCITE OF 1935 AND THE PERENNIAL ISSUE OF  
THE FRENCH TROOPS

The key to an understanding of the new battle over the Saar—an intellectual battle that has been waged relentlessly and continuously since the setting up of the régime provided for in the Treaty of Versailles—is to be found in the arrangement for a plebiscite to be taken at the end of fifteen years. The stipulations of the Treaty in so far as they relate to the plebiscite must, therefore, receive further attention and their significance to Frenchmen and Germans must be understood before the specific issues in the controversy are considered.

According to the Treaty Germany renounced the government of the Saar in favor of a trustee—the League of Nations—for a period of fifteen years,<sup>1</sup> but she did not renounce her sovereignty over the Territory.<sup>2</sup> At the end of this period the inhabitants of the Saar were to be called upon to “indicate the sovereignty under which they desire to be placed.”<sup>3</sup> The voting was to be open to: “All persons without distinction of sex, more than twenty years old at the date of voting, resident in the territory at the date of the signature of the present Treaty. . . .” (par. 34). The ultimate decision, however, was reserved for “the League of Nations” (par. 35),<sup>4</sup> which “shall decide on the sovereignty under which the territory is to be placed, taking into account the wishes of the inhabitants as expressed by the voting.”

<sup>1</sup> Treaty of Versailles, Part III, Sec. IV, art. 49.

<sup>2</sup> *Ibid.*, Annex, par. 35.

<sup>3</sup> *Ibid.*, art. 49.

<sup>4</sup> The Treaty does not specify that the *Council* of the League shall make the decision but in spite of the fact that the failure to be precise on this point is exceptional in this section of the Treaty, and that therefore it might be inferred that the concurrence of the Assembly was intended, it is more likely that haste in drafting the provisions accounts for the omission, and that the intention was to place the matter exclusively in the hands of the Council. At any rate, in an analogous case the Council decided it possessed full competence, although the German government contended that the decision lay with the Assembly. In this connection, see Treaty, Part III, Sec. 1, art. 34; and *L. N. O. J.*, no. 8 (Nov.–Dec. 1920), 85.

The Treaty does not specify that the League shall take into account anything but the wishes of the voting population, but it is quite conceivable that it may be forced to do so. For example, the vote is to be taken by communes or districts, and inasmuch as the voters are allowed three alternatives, it is possible that certain districts may poll a majority in favor of retaining the existing régime, others may vote to have German sovereignty restored, and still others may express a desire for union with France. If the League were simply to ratify the desires of these respective majorities the economic unity of the Saar would be destroyed and the welfare of the population seriously threatened. Indeed the same might be true were the inhabitants throughout the Saar to reject the League alternative and vote respectively for France and Germany.<sup>5</sup>

In the event that "the League of Nations decides in favour of the union of the whole or part of the territory of the Saar Basin with Germany," Germany is privileged to repurchase the mines in such territory "at a price payable in gold" (par. 36). If, however, Germany shall not have made the payment within a year, "the Reparation Commission shall do so in accordance with such instruction as may be given by the League of Nations, and, if necessary, by liquidating that part of the mines which is in question." France and Germany have the alternative of entering into agreements, "before the time fixed for the payment of the price for the repurchase of the mines," modifying the foregoing provisions (par. 38).

These plebiscite provisions insured the "war after the war" in the Saar. They challenged Frenchmen to the task of winning the country for France; they inspired Germans with a grim determination to hold the Saarland for Germany.<sup>6</sup> Both sides have been alive to

<sup>5</sup> The Upper Silesian plebiscite of March 20, 1921, may be noted here. Instead of the disposition of the entire region on the basis of a majority vote, district majorities were taken into consideration (as is contemplated in the Saar plebiscite) and a division of the territory unfortunate from the point of view of its economic unity was made.

<sup>6</sup> In the Report of the Governing Commission of November 1, 1921, President Rault said: "It appears that an agitation is already being started in order to prepare for the plebiscite of 1935." (*L. N. O. J.*, 3d year, no. 1, 44.) Part of this agitation took the very practical form of a demand that the Governing Commission allow the compilation of lists of those persons entitled to vote in the plebiscite of 1935 before the available data should be lost or destroyed. The Governing Commission, however, pointed out that it was within the power of the Council of the League only to authorize this step, and refused to allow the Germans to proceed until the Council should act. (Tenth Rept. Gov. Com., *op. cit.*, 227-228). The Council took action September 26, 1922, by appointing M. Alfred Bonzon, a Swiss, as Provisional Records Commissioner in order that the necessary records might be preserved (*L. N. O. J.*, 3d year, no. 10 [Oct. 1922], 1097).

the situation and equally alert and vigilant—the French to exploit their opportunities, the Germans to check or neutralize French penetration. The feeling of many Frenchmen whose interest has been enlisted in the Saar has probably been accurately expressed by the writer of the following:<sup>7</sup> "After the real war we must start a war of a spiritual nature against the German influence, so preponderant in certain parts of the Saar."

The French government spokesmen in 1919 avowedly shaped their course, as far as the Saar was concerned at any rate, in accord with the researches and recommendations of the Comité d'Etudes.<sup>8</sup> The conclusions of Professor L. Gallois, based upon his economic and political study of the Saar, therefore give a clue to French hopes and French strategy.<sup>9</sup> Gallois expressed the conviction that with the exception of a small group of great industrialists, Pan-German in sentiment, there was no love for the Prussians on the part of the Saar population and that it could be reconciled to French rule. Old memories would quickly revive in the Saarlouis district, and at Saarbrücken immediate interests might be relied on to mold political sentiments. It would be necessary, however, to get rid of the Prussian functionaries and the teachers, and cut the territory off from Germany, although preserving certain political and administrative arrangements to which the inhabitants were accustomed. Then, with a free hand, and with care and without brusqueness, France could win over the entire population.

Specifically, there were certain things that France could do toward that end. Prussia had always sacrificed the industry of the Saar to that of Westphalia so that the Saarlanders "complain that they have been treated like a Cinderella by the Prussian State." France, by opening large markets to the Saar industry, would give it satisfactions that could be turned into sympathy. Again, Prussian discipline weighed heavily on the mine workers; the less rigid discipline of the

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<sup>7</sup> F. Vitry, *Renaissance*, II, no. 3 (Jan. 20, 1923), 6.

<sup>8</sup> Tardieu, *op. cit.*, 262.

<sup>9</sup> L. Gallois, *Economic and Political Study of the Coal Basin of Saarbrück* (Comité d'Etudes), 105-129. But the writer is less concerned in the remainder of this chapter with the task of demonstrating to detached minds phases of French or German policy than he is with the elucidation of the Treaty provisions in the light of minds in France and Germany not at all detached. It is essential to keep in mind that in international polities evidence which might not seem convincing in a court of law is so frequently relied on by governments and peoples (if not by scholars) in judging the intentions of other governments and peoples that to ignore such evidence is to reject important raw material that helps to fashion international relations.

French would appeal to the workers.<sup>10</sup> Finally, the masses had been penetrated by democratic ideas. Under a French régime would they not fully realize their democratic aspirations?

The views of the French Commission sent into the Rhineland in 1922<sup>11</sup> are in remarkable accord with those of Professor Gallois:<sup>12</sup>

The French policy in the Saar should be one of methodical and prudent action, without premature rashness or excessive timidity.

In this region the German-speaking Lorraine elements, which represent the autochthonous and secular race, are submerged by other elements of Prussian origin established after the treaties of 1815, a numerous colony from the North—miners, officials who have founded families, traders long established in the industrial zone. These constitute, above the mass of the Lorraine peasants, a more active class, better organized, attached to the memory of Greater Germany, and by hypothesis hostile to the action of France.

The official is in general hostile to us; the teacher retains the German culture and transmits it to the new generations; the clergy, in a country predominantly Catholic, shows a prudent reserve explainable by the uncertainty of the morrow.

A delicate (*nuancée*), prudent, sustained policy is essential; the progressive replacement of these Pan-German officials, the conquest of the school, alliance with this clergy whose national sentiment is easily dominated by a preoccupation with adaptation to the forms of a new régime, the utilization of the press, the organization of the working classes into trade unions with a defined tendency being problems which offer themselves to our meditations.

In the same vein Pierre Taittinger, member of the Chamber of Deputies from Charente-Inferieure, calls attention to the fact that the solution forced upon France "by the obstinacy of President Wilson" is only a provisional one, that "the fate of the Basin will only be decided in 1935, and it is for us to make use of our opportunity between now and then."<sup>13</sup> Again, M. Engerand, member of the Chamber of Deputies from Calvados, has also pointed out that the plebiscite provisions of the Treaty make it necessary for France to have a Saar policy. He says:<sup>14</sup>

<sup>10</sup> The French mining officials in the Saar today make quite a point of the more humane and democratic attitude of the French overseers in the mines. In this connection see Whiting Williams' article in *Scribner's* for April 1922. Mr. Williams worked for a short time as a miner in the Saar and was enthusiastic about the efficiency of the French and their generous treatment of workers.

<sup>11</sup> See page 183, note.

<sup>12</sup> Compare also with the views and policies of the Governing Commission, chap. 4.

<sup>13</sup> *La Revue Hebdomadaire*, XXXI, 93.

<sup>14</sup> F. Engerand, "Les Directives désirables de notre Politique Houillère dans la Sarre," *L'Illustration Economique et Financière*, Supplement to the number of August 20, 1921, 8.

This stipulation of the Treaty of Versailles compels us, then, to have a Saar policy, and a sustained policy followed during fifteen years. As elected representatives have always before their minds the date when they shall come up for re-election, so we must have, as to the Saar, always in our thoughts the election of 1934, and our entire policy from now until then should be to make the outcome favorable to us. We are, then, as far as the Saar is concerned, at once proprietor and candidate; it is our privilege and ours alone to consolidate the advantage given us in the Treaty of Versailles.

The key to the hearts of the people of the Saar, in M. Engerand's opinion, is labeled material welfare. Prussia never used it. France is now in a position to do so. By it she can hope "in fifteen years, to conquer the heart of the Saar."

Another well-known Frenchman,<sup>15</sup> writing in 1921, pointed out that in the Saar, at least, the Treaty of Versailles is being executed, and "in the sense most favorable to French interests."<sup>16</sup> It would, though, be unwise, he continued, to consider only immediate gains secured by virtue of the possession of the coal and the control of the customs, etc.—attention should rather be focused on the plebiscite of 1935. Speaking of the additional rights of France under the Treaty to circulate the franc, and to open schools in the Territory, he remarked:<sup>17</sup>

It is superfluous to stress the political importance of the rights thus reserved to France. By reason of this same plebiscite of 1935 there is nothing in the Saar that has not a political character, but likewise there is nothing that France can not do toward that great day and in conformity with the Treaty.

After reviewing the situation in the Saar and defending the policies of the Governing Commission, he returned to the question of the plebiscite:<sup>18</sup>

So much for the present. What will be the future which the plebiscite will decide in fourteen years? If it is still too early to foresee the results it is not too soon to prepare them: the plebiscite of the Saar is long dated; fifteen years of economic existence in the customs union with France, fifteen years of exercise by France of the rights which the treaty gives her will permit the Saarlanders to base their judgment upon an experience that no maneuver of the last minute will be able—let us hope—to nullify.

<sup>15</sup> Lieut. Col. Requin, President of the Permanent Armaments Commission of the League of Nations. (*Fourth Year Book of the League of Nations*, 142.)

<sup>16</sup> Requin, "L'Execution du Traité dans la Sarre," *Revue de Paris*, XXVIII, 521.

<sup>17</sup> *Ibid.*, 525.

<sup>18</sup> *Ibid.*, 533.

Indeed the political significance of the economic advantages accorded France in the Treaty seems to have escaped few French writers. In a special number of *L'Illustration Économique et Financière* devoted principally to featuring French achievements in the Saar, another writer speaks of the extremely important character of the economic position of France in the Territory, and reflects that although the Treaty did not give the Saar to France it installed her there and put in her hand the key to the country. And it provided that in fifteen years the people of the Saar will be called upon "to say what they think of France."<sup>19</sup> In these circumstances, in the view of the same writer, the honor of France was involved, the genius of the nation challenged, and the leaders of French policy must realize it "if they do not want to incur some day public blame."

According to the provisions of the Treaty a vote favorable to Germany in 1935 will apparently give the German government an opportunity to repurchase the mines, but one of the foregoing writers is of a different opinion. Estimating the value of the mines at about five hundred million gold marks, he thinks it inconceivable that Germany will be authorized to allocate that amount of gold for the repurchase of the mines until she has met her reparation obligations.<sup>20</sup> But these obligations are so heavy in his opinion, that Germany will still have several milliards to pay in 1935. Under these circumstances no French government will allow the German government to buy back the mines until Germany has paid "the last pfennig" on the reparations account. Indeed the Treaty itself anticipates the possibility of a direct settlement between France and Germany on the question of the ownership of the mines, says the writer, and the debate thus opened "between the French creditor and the German debtor would not be resolved contrary to our interests."<sup>21</sup>

Foreign offices are very cosmopolitan in their reading, however nationalistic they may be in their outlook. The French Foreign Office minutely and methodically follows the German press and the German Foreign Office methodically and minutely follows the French press and, with their other sources of information, they invariably have much food for reflection. The German government and the leaders of the political parties in the Saar in their steadfast opposition to the

<sup>19</sup> André François-Poncet, "La Métallurgie de la Sarre," *L'Illustration Économique et Financière*, Supplement, August 20, 1921, 31.

<sup>20</sup> P. Taittinger, *op. cit.*, 96.

<sup>21</sup> *Ibid.* *Supra*, 185.

policies of a Governing Commission which they distrust have been chiefly moved by a fear of what may happen in the Territory in 1935, and a determination to hold the population in line for Germany.

In this connection it should be noticed that the German government, determined to prevent France from securing the Saar, is further determined that the Saar shall be *held for Germany*.<sup>22</sup> In other words it cannot be expected that between now and 1935 any German government will lend its moral support to the League government of the Saar whether that government is good or bad as long as the alternative of permanent government by the League is to be presented to the voters of the Saar in 1935.<sup>23</sup> Indeed it is not to be doubted that the more popular the League régime in the Saar should become in Saarbrücken the less popular would it be in Berlin. It is not characteristic of suitors to recognize the excellent qualities of dangerous rivals.

On all important issues that have arisen in the Saar the leaders of the principal political parties and the most influential newspapers of the Territory have made common cause with the German government against the Governing Commission. The German government has sent notes, the political parties have dispatched petitions, memorials, and protesting delegations to Geneva; and the local press, as well as the German press outside the Saar, has constantly attacked the Governing Commission and its policies. One campaign—possibly the most important—in this “*guerre spirituelle*” must now be recorded.

The perennial issue in the Saar has been furnished by the decision of the Governing Commission to retain French troops in the Territory. According to the Treaty, it will be recalled, there was to be neither compulsory nor voluntary military service in the Saar, but “only a local gendarmerie for the maintenance of order.” On the other hand the Governing Commission was required “to provide in all cases for the protection of persons and property in the Saar Basin.”<sup>24</sup> But when the Council appointed the Governing Commission there was no

<sup>22</sup> If the inhabitants were to vote for the maintenance of the League régime instead of voting for France the latter would still remain in possession of all the rights she now possesses, but Germany would be required to renounce her sovereignty over the Saar as well as her government of it. This would be only less distasteful than to have the Territory ceded to France.

<sup>23</sup> The writer was unable to find any German leaders in the Saar who could conceive that any League government of the Saar operating under the Treaty provisions would be satisfactory, although they assert that a truly neutral Governing Commission would receive their loyal support for the remainder of the fifteen years.

<sup>24</sup> Part III, Sec. IV, Annex, par. 30.

local gendarmerie functioning in the Saar, except communal and municipal police, although there were plenty of French troops who might be induced to remain. The Council therefore decided that until the Governing Commission should be able to establish the local gendarmerie stipulated in the Treaty it might have recourse in its discretion to the French troops stationed in the Territory.<sup>25</sup>

The Governing Commission decided to retain the French troops, accordingly, until it could organize the local gendarmerie called for in the Treaty, but stated that henceforth they would have the status of garrison troops and not that of troops of occupation.<sup>26</sup> The local gendarmerie was constituted by a decree of the Governing Commission dated July 7, 1920,<sup>27</sup> but the French troops were still retained and court-martial proceedings and deportation orders by the military authorities were sanctioned by the Governing Commission.

The German government protested against the retention of the troops in the Territory on the ground that no forces for the maintenance of order in the Saar, with the exception of the local gendarmerie, were allowed by the Treaty.<sup>28</sup> It also protested against the exercise of French military jurisdiction over the inhabitants as inadmissible under the Treaty,<sup>29</sup> arguing that justice in the Territory was to be rendered in accordance with German law (French courts-martial operated under French law) and in the name of the Governing Commission, not "in the name of the French people."<sup>30</sup> The only tribunals having jurisdiction in the Saar, in the view of the German government, were the regular civil and criminal courts that had formerly existed, and the courts set up by the Governing Commission under the Treaty.<sup>31</sup>

<sup>25</sup> The following excerpt is the relevant part of the report of M. Caclamanos which was adopted by the Council: "The Governing Commission's duty, by the terms of paragraph 30, will be to provide in all cases for the protection of persons and property in the Saar Basin. Consequently it will have the power to demand the maintenance or return of all or a part of the troops called up to preserve order, if necessary, till the establishment of a gendarmerie of the Saar, as provided for in paragraph 30." (*L. N. O. J.*, no. 2 (March 1920), 47.)

<sup>26</sup> President Rault to the political parties of the Saar. (*German White Book*, no. 87, 129. *See also* First Rept. Gov. Com., *op. cit.*, 104.)

<sup>27</sup> See *Amtsblatt*, no. 7 (July 24, 1920), doc. no. 99, for text of the decree.

<sup>28</sup> See *German White Book*, no. 99, 141-142, for text of note of April 23, 1921, of the German government to the League of Nations.

<sup>29</sup> *German White Book*, no. 97, 139-140, for note of April 7, 1921, from the German government to the League.

<sup>30</sup> Quotation from a "Jugement" of a French court-martial. See *German White Book*, 137, for legal form of a "Jugement."

<sup>31</sup> *German White Book*, no. 97, 140. See on this point Treaty Part III, See. IV, Annex, pars. 23, 25.

The Governing Commission, in the first place, defended its decision to retain the French troops by asserting that its action was legally justifiable,<sup>32</sup> the Treaty not restricting it as to the means it should employ in discharging its duty to assure protection to persons and property in the Territory.<sup>33</sup> President Rault then pointed out that the troops were entirely distinct from the army of the Rhine and that their commander must comply with all requests made by the Chairman of the Governing Commission.

On the other hand there were certain practical reasons, according to the Chairman of the Governing Commission, that made the retention of the troops necessary. If the garrison troops were dispensed with, a local police force of at least four thousand men would have to be recruited. But it seemed impossible to raise such a force on account of the attraction afforded by remunerative employment in the mines and workshops. M. Rault said further:

It is also probable that such a gendarmerie would possess the defects inherent in police obtained by local recruiting; the Chairman feels that it is his duty to point out that the municipal police and local gendarmerie last August associated themselves with the strike of officials and left their posts. The upkeep of such a large force would be a crushing charge upon the resources of the Territory. The force of thirty foot police, recruited last August, necessitates an annual expenditure of seven hundred thousand marks. The finances of the Governing Commission could not therefore, by any possibility, bear the expense of a police force of sufficient strength, which should include several squadrons of cavalry. At the present time, the French Government, in order to enable the Governing Commission to ensure the safety of the mines, maintains nearly seven thousand troops in the Saar Basin, and the French Budget includes an item for expenditure under this head of more than 40 million francs.

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<sup>32</sup> It relied on paragraph 30 of the Annex to articles 45–50, as had the German government when the latter claimed the retention of the troops legally inadmissible. The German government considered that part of paragraph 30 which said that only a local gendarmerie might be established, as decisive; the Governing Commission, on the other hand, fixed its attention on the injunction laid on it to protect persons and property in the Saar. In this connection it is interesting to note the view of a French official. "Finally from the French point of view article 428 of the Peace Treaty gives the troops of the Allied Powers the right to occupy the German territories situated to the west of the Rhine for a period of fifteen years, and this article, absolutely general in scope, is not subjected to the slightest qualification elsewhere. In order to be able to support the contention that the presence of the French troops in the Saar constitutes a violation of the Treaty, it would have been necessary for article 428 to except the territory of the Saar Basin from the general rule, or for the article dealing with the constitution of the local gendarmerie to lay down precisely that in any case no troops of the Allied Powers shall be stationed in the Saar Territory." (Report of French Commission sent into the Rhineland in 1922, *op. cit.*)

<sup>33</sup> From letter of Chairman of the Governing Commission under date of April 14, 1921, to the League. (See *L. N. O. J.*, 2d year, no. 7, 684.)

In a memorial to the League of Nations the political parties of the Saar (excepting the communists) took issue with the Governing Commission on this as well as on other issues.<sup>34</sup> They expressed the opinion that a sufficient number of men could be secured for the local gendarmerie, that the defects of a locally recruited police force could be avoided by careful choice, and that the Saar Basin could bear the expense inasmuch as a "body of 1500 would be ample, in consideration of the acknowledged peaceful disposition of the inhabitants."<sup>35</sup> The political parties also complained of the hardships suffered by the population as a result of the demands of the military authorities for dwellings for the soldiers. Thus:

While it is true that the French State is bearing the cost of maintenance of the French troops, there still arise large expenses for many communes in payment of the cost of dwellings and their furnishing with which they are obliged to supply the French military.

This memorial received due attention from the Governing Commission in its Tenth Report to the League on January 3, 1922, in which it expressed itself in part as follows:<sup>36</sup>

The Governing Commission regrets that it cannot pretend to agree with the declarations of the political parties regarding the strength and recruitment of a local police force. The troubles of October, 1919—when pillaging took place in various districts of the Saar Territory and even in the center of Saarbruck, in spite of the presence of a French division on a war footing—render it impossible to maintain that "on account of the character of the population, which is eminently peaceful, a force of 1500 would amply suffice."

It is, no doubt, easy for the leaders of certain political parties to say: "Our opinion is that the French mines have no need whatever of a garrison for their protection." The Governing Commission, which has to maintain order and ensure the safety of property and persons, and which is responsible both to the League of Nations and to France for the safety of the French State Mines, can alone decide under what conditions and by what means it can accomplish these important duties.

A detailed statement concerning the housing situation in the Territory was made with the object of refuting the assertions of the political parties and of showing that the Governing Commission had materially

<sup>34</sup> Osborne, *op. cit.*, Appendix S, 367-372, for text of the memorial.

<sup>35</sup> *Ibid.*, 370-371. In connection with the question of the size of the police force necessary for an industrial population of 713,000 people, some clue as to the answer may be gained from R. B. Fosdick, *European Police Systems*, Appendix VII, 401-402. For example, Manchester, England, with a population of 714,333 has a police force of 1350 men. It is, of course, true that other factors in addition to the size and industrial character of a population must be taken into account, and the figures indicated are merely suggestive.

<sup>36</sup> Tenth Rep. Gov. Com., *op. cit.*, 228.

alleviated the housing shortage which, it was pointed out, resulted from the war and was a phenomenon not confined to the Saar Territory.<sup>37</sup>

In the meantime the local gendarmerie established by the decrees of July 7, 1920, grew so slowly that the German government was moved to point out in a note to the League that at the rate the Governing Commission was proceeding it would be about sixty years before the gendarmerie would be completed.<sup>38</sup> Thus it would be for the French troops to determine whether the plebiscite of 1935 should take place in an atmosphere free from undue influence. The German government further ventured the opinion that the people of the Saar would be happy to assume the financial burdens involved in completing the local gendarmerie if they could be relieved of the heavier moral burden imposed by the presence of foreign troops. Finally, the point was emphasized that the maintenance of order in the Saar by the troops of one of the Powers interested in the outcome of the plebiscite was absolutely incompatible with the status of the Territory.

The Governing Commission in its observations on the German note reiterated the impossibility of recruiting an adequate gendarmerie on account of the young men being attracted into industry and because of the expense it would involve.<sup>39</sup> The local gendarmerie would be increased as the financial situation might allow but the Commission was convinced of the necessity in any case of retaining the garrison force of 4500 men in the Territory.<sup>40</sup>

The political parties of the Saar, in a memorandum of December 29, 1922, on the French troops in the Territory, reviewed the arguments of the Governing Commission, answered them and drew certain conclusions as to the motives of the Commission in retaining the troops.<sup>41</sup> The people of the Saar were not given to strikes, pillaging, and disorder, as the Governing Commission had intimated.<sup>42</sup> From 1891 to

<sup>37</sup> *Ibid.*, 229–231.

<sup>38</sup> *L. N. O. J.*, 4th year, no. 3, 362. President Rault reported on September 22, 1922, that the local gendarmerie amounted to 155 men (*ibid.*, 361); on March 8, 1923, he reported the same number (*L. N. O. J.*, 4th year, no. 4, 424).

<sup>39</sup> *Ibid.*, 363.

<sup>40</sup> *Ibid.* The opinion was expressed that it would, for a number of reasons, be impossible to raise as many as 4000 men for the local gendarmerie.

<sup>41</sup> *Das französische Militär im Saargebiet* (Saarbrücken), in Hoover War Library, Stanford University. The gist of the memorandum is also given in the report on the question of the French troops in the Saar, by M. Tang Tsai-Fou, Rapporteur of the Council of the League on Saar matters (*L. N. O. J.*, 4th year, no. 3, 362–364).

<sup>42</sup> The position taken by the political parties is outlined in this and succeeding remarks.

1918—a period of 27 years—the Saar had not experienced one important strike. There had been no pillaging before the arrival of the French troops. The pillaging of 1919, which was not widespread, represented a natural protest against the exploitation of the inhabitants by foreign profiteers—an exploitation tolerated by the military authorities. The disorders could easily have been suppressed if the local police had had a free hand. The officials' strike of August, 1920, was a protest against the violation of their rights by the Governing Commission. The 24-hour general strike, designed to show the population's sympathy for the officials, was marked by no disorder. These two cases, then, prove nothing against the peaceful character of the inhabitants and show no necessity for a gendarmerie of 4000 men to preserve order and afford protection for the mines. If the Governing Commission needs a gendarmerie of 4000 men it thereby gives proof that it is convinced that its policy cannot acquire the confidence of the population.

The Governing Commission, contrary to its assertion, can recruit a local gendarmerie of sufficient size. Applications for these posts have been numerous. As to the question of expense, the Commission's estimate of the cost of a normal police force is too high. The Saar is able to bear and desires to bear the cost of an adequate police force. It can easily do so if the Governing Commission will give up a policy opposed to the wishes and interests of the population. Thanks to this policy the Commission is obliged to pay salaries higher than would otherwise be necessary in the hope of securing a pliant body of civil servants.

The population is convinced, the political parties concluded, that the true cause of the presence of French troops in the Saar is to support the intense French propaganda in the Territory and try to intimidate the population so that the inhabitants will vote for France at the time of the plebiscite.<sup>43</sup> That is the reason the Governing Commission is so tenacious in its fight to retain the French soldiers in the Saar.<sup>44</sup>

<sup>43</sup> The French Commission previously quoted (*supra*, 111–112) made the following contribution on this point: "The maintenance [of the troops] was based on the necessity of assuring the safety of property and persons in the territory as well as of the communications of the French army of the Rhine. . . . The effectives kept in the Saar have been determined by the strategic importance of the territory occupied, which arises (a) from its communications, which are precisely those of the French army of the Rhine, and (b) from the wooded heights which these communications have to traverse north of Saarbrucken. The safety of the former can only be secured by a sufficient contingent permanently on the spot; the safety of the wooded range can be confided to foreign elements, subject always to their admixture with special nuclei and units drawn from the garrison of the country."

<sup>44</sup> End of the summary of the memorandum in so far as it concerned the question of the retention of the French troops.

Whether the single underlying motive of the Governing Commission prompting it to retain the French troops has been other than a natural desire to have at hand at all times a coercive force upon which it could depend in all emergencies to support the policies it considered were justified but which were nevertheless unpopular, the writer expresses no opinion. On the other hand it is less open to doubt that German opposition to the retention of the French troops has been based fundamentally upon a natural and reasonable fear that they may help to dragoon the population into voting for France in 1935.

Intimately related to this whole question is the subsidiary question of the French gendarmerie in the Saar. In addition to the establishment of a local gendarmerie the Governing Commission by a decree of July 7, 1920,<sup>45</sup> provided that the French gendarmerie, a body comprising between 75 and 100 effectives,<sup>46</sup> primarily intended for the policing of the French troops, should be given additional duties by the Chairman of the Governing Commission. For example, they were to ensure the carrying out of requisitions, they were to supervise frontier traffic, and in general were to be entrusted with the fulfillment of tasks which the Chairman of the Governing Commission might assign to them in the interest of general security.<sup>47</sup>

The German government in a note of April 23, 1921, to the Secretary-General of the League, protested against the maintenance of this French gendarmerie which, it was pointed out, formed an integral part of the French army in discipline and organization, at the same time that it was employed by the Governing Commission as a kind of special political police.<sup>48</sup> In another note of August 23, 1922, the German government professed inability to understand how two gendarmeries could be maintained in the Saar Territory in view of the provision of the Treaty stipulating for only a local gendarmerie. It then alleged that in addition to the duties mentioned in the Governing Commission's decree of July 7, 1920, other tasks had been delegated to it such as the gathering of confidential information about applicants for positions in the communal administration, and the investigation of the attitude of the population at different times.<sup>49</sup>

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<sup>45</sup> *Amtsblatt*, no. 7 (July 24, 1920), doc. 101.

<sup>46</sup> Priou, *op. cit.*, 42.

<sup>47</sup> *Ibid.* Cf. *Amtsblatt*, no. 7.

<sup>48</sup> German White Book, no. 99, 141-142.

<sup>49</sup> *L. N. O. J.*, 4th year, no. 3, 365. The Governing Commission categorically denied the allegation of the German government (*ibid.*).

Thus the controversy has gone on and there is no reason to suppose that, as long as any French troops remain in the Saar, the German government and the Germans of influence in the Territory will be satisfied. On the other hand, as we shall see later, the Governing Commission has been forced by pressure from other quarters to reconsider its position.<sup>50</sup>

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<sup>50</sup> See chapter 7.

## CHAPTER VII

LEAGUE MACHINERY AND PROCESSES IN RELATION TO  
THE GOVERNMENT OF THE SAAR

The Saar Basin Governing Commission differs from other international commissions of the past in that the members are not appointed by and answerable to the governments of their respective countries, but are selected by an international body—the Council of the League of Nations—are responsible to that body, and may be removed by it. Thus governments whose nationals may have seats on the Governing Commission do not have, by virtue of that fact, any right of separate control over the actions of these nationals as members of the Commission. Such control as governments may legally exert can only be exercised collectively; indirectly, by virtue of membership in the League of Nations, states may participate (if they are represented on the Council) in the selection of the personnel of the Governing Commission, the determination of the salaries of the members of the Commission, and in their general supervision.

The Treaty, however, vests the government of the Saar in the League of Nations, "in the capacity of trustee," so that the organ of the League in which all the members are represented, i.e., the Assembly, has the right to be informed by the Council of decisions taken by the latter with respect to the government of the Saar, and the right to make suggestions to the Council on the subject. As a matter of fact the Council makes annual reports to the Assembly on its own work,<sup>1</sup> the work of the Secretariat, and on the measures taken to execute the decisions of the Assembly. In this way the Assembly has been kept informed by the Council of developments in the Saar.

The right of the Assembly to "discuss and examine any matter which is within the competence of the League" was also early estab-

<sup>1</sup> In accordance with a "Report on the relations between and respective competence of, the Council, and the Assembly" adopted by the Assembly December 7, 1920. (Records of the First Assembly, Plenary Meetings, 1920, 320.)

lished.<sup>2</sup> Thus the Saar question can be and has been discussed in the Assembly of the League of Nations in which the representatives of 55 nations at present sit.<sup>3</sup> For example, at the Fifth Plenary Session of the Third Assembly, Lord Robert Cecil, at the time representing the Union of South Africa, took up the Saar question, among others, and made the suggestion that the Saar member of the Governing Commission be appointed in collaboration with the Advisory Council.<sup>4</sup> Naturally the only effect of the remarks of Lord Cecil was to acquaint the members of the Assembly with the fact that the League had responsibilities in the Saar, and the members of the Council with the fact that the Assembly was taking note of the government of the Saar and might have certain observations and suggestions to make from time to time.<sup>5</sup>

It cannot be said, indeed, that the Assembly has exercised any appreciable influence on the handling of the Saar questions, and apparently it has not even been especially interested in them. In practice they have been in the hands of the Council and the Secretariat—the Council by virtue of its specific responsibilities, as regards the Saar, under the Treaty; the Secretariat because of the fact that it is a continuously-functioning organ composed of experts possessing superior information on the matters they have in charge.<sup>6</sup>

The Secretariat, of course, possesses no independent executive powers, but its members do exercise considerable influence. The Assembly meets but once a year, and for only a few weeks; the Council on an average about once in two months and for but a few days;<sup>7</sup> but the Secretariat is in constant session, so to speak. During twelve months of the year its members are not only handling correspondence and gathering data upon which the Assembly and the Council must

<sup>2</sup> *Ibid.* The right was based on part of Article 3 of the Covenant of the League of Nations: "The Assembly may deal at its meeting with any matter within the sphere of action of the League or affecting the peace of the world."

<sup>3</sup> January, 1926. The membership of the League is not confined to states, the self-governing Dominions and Commonwealths of the British Empire and India, also being included. See Manley O. Hudson, "Membership in the League of Nations," in *Am. Jour. of Internat. Law*, XVIII, no. 3 (July 1924), 5-6.

<sup>4</sup> Records of the Third Assembly, Plenary Meetings, I (1922), 44. See 66-67 for remarks of Lord Balfour, British member of the Council, defending the government of the Saar.

<sup>5</sup> It is not to be inferred that the Council has ignored resolutions passed by the Assembly. In this instance no resolution was adopted or even proposed.

<sup>6</sup> The Administrative Commissions section of the Secretariat, which deals with Saar questions, is under the direction of Erik Colban (Norwegian). Huntington Gilechrist (American) was in charge of Saar matters until 1924.

<sup>7</sup> Except for the session it holds at the time the Assembly meets each year.

in the nature of things largely depend in reaching their decisions, but they are meeting and handling *situations* as they arise day by day. As a body of experts acting in an international capacity rather than as representatives of their own respective countries,<sup>8</sup> they have attained a reputation for impartiality that has frequently enabled them to tone down animosities, compose differences, and ameliorate situations in different parts of Europe.

These remarks are in general applicable to the Saar situation. The members in charge of the Administrative Commissions section of the Secretariat have been in constant touch with conditions in the Saar. They receive the official reports of the Governing Commission, the minutes of its meetings, the *Amtsblatt* (*Official Journal of the Governing Commission*), containing texts of the decrees, ordinances, and proclamations of the Governing Commission, and confer with the President and individual members of the Commission; on the other hand the German view reaches them through written protests from the German government, petitions and memorials from the representatives of the Saar inhabitants, and personal visits from Saar delegations. These sources of information are supplemented by occasional visits to the Saar Territory itself.

It is thus impossible for the Governing Commission, should it be so disposed, to ignore or dismiss lightly charges against its government of the Saar. The regular procedure adopted by the Council for petitions and memorials addressed to the League from the representatives of the inhabitants, however, requires that they shall be sent to the Governing Commission itself.<sup>9</sup> The Commission is then required to forward them to the Secretary-General of the League with such comments as it desires to make. The German government, on the other hand, has sent notes of protest to the League direct,<sup>10</sup> as well as to the Governing Commission.

The procedure followed in the case of M. Frantzen illustrates the foregoing remarks and at the same time indicates certain virtues in

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<sup>8</sup> They are appointed by the Secretary General, subject to the approval of the Council, as representatives of the League and subject to instructions from the League only. On the other hand the members of the Assembly and of the Council are appointed by their respective governments and are subject to instructions from those governments.

<sup>9</sup> *L. N. O. J.*, no. 7 (October 1920), 403.

<sup>10</sup> In these cases the Secretary General has usually sent a copy of the German note to the Governing Commission with a request for any observations the Governing Commission may care to make.

the League's machinery for publicity. M. Frantzen was an official in the employ of the Governing Commission. When the French occupied the Ruhr, M. Frantzen asked for a leave of absence to take a position on the Engineer's Commission which the French government sent into this occupied territory. The German government dispatched a note of protest to the League, claiming that this was a violation by one of the League's organs of the principle of impartiality. Certain of the political parties represented on the advisory council also addressed a petition to the League on the subject and sent it to the Governing Commission.

President Rault forwarded this petition as he was under obligation to do, to the League, at the same time explaining that M. Frantzen had been granted leave on his own request, and that he had not received any remuneration from the Governing Commission since his departure. These facts were brought to the attention of the Rapporteur of the Council on Saar questions,<sup>11</sup> by the Administrative Commissions Section of the Secretariat. An inquiry was then made of M. Rault as to whether M. Frantzen would return to the service of the Governing Commission. M. Rault replied that he would not. The Rapporteur then proposed to the Council that it was unnecessary to give any further consideration to the question. The Council so resolved, but it also included in the resolution instructions to the Secretary-General to communicate its findings to the German government and to the Governing Commission "for their information."<sup>12</sup>

In certain cases, apparently, pressure from League quarters has stimulated the Governing Commission to modify its policies. There is reason to believe that the Commission's rather tardy decision to create a general assembly (Advisory Council) for the Saar, although due in part to the refusal of the local assemblies to be "consulted" any longer,<sup>13</sup> was in part inspired by the Secretariat.<sup>14</sup> The Council Rapporteur, to be sure, in reporting the action of the Commission, congratulates the Commission on its "initiative" in creating the advisory

<sup>11</sup> The Council delegates to its individual members the tasks of investigation and report on specific questions. The Rapporteur, in this case Mr. Tang Tsai-Fou, consults with and relies for advice and information on the member or members of the Secretariat whose duties require them to be familiar with these questions.

<sup>12</sup> *L. N. O. J.*, 4th year, no. 6, 688.      <sup>13</sup> *Supra*, 178-179.

<sup>14</sup> Based on a statement to the writer by a person in close touch with the League. The testimony of M. Rault, however, at the time of the "Enquiry" of July 6, 1923 would seem to confirm this (*L. N. O. J.*, 4th year, no. 8, 912).

council,<sup>15</sup> and President Rault speaks of the inconveniences of the older method of consultation as decisive in leading to the change;<sup>16</sup> but it is interesting to reflect that it took the Commission two years to become aware of these inconveniences.

The controversy between the Germans and the Governing Commission concerning the retention of the French troops has been related.<sup>17</sup> The original position of the Council, it will be recalled, was that the troops might be retained until a local gendarmerie, as provided by the Treaty, could be established. The local gendarmerie was early established but it was never completed. Indeed it stopped growing when it numbered 155 men, which was about 4345 short of the number President Rault estimated as necessary for the maintenance of order and the protection of lives and property.<sup>18</sup>

In response to protests from the German government the Council on June 20, 1921, examined the related questions of the presence of French troops in the Saar, the existence of a French gendarmerie, and the exercise of jurisdiction by French courts-martial. Concerning the maintenance of French troops the Council agreed that the duty of the Commission to maintain order in the Territory was "paramount," and that the Commission must be the judge of its needs for that purpose. "At the same time, the report to the Council of February 13, 1920,<sup>19</sup> does not contemplate the maintenance of a foreign garrison as a permanent feature of the organization of the Saar but, on the contrary, lays down the policy of dispensing with the support of foreign troops as soon as the development of the local gendarmerie enables the Governing Commission to decide that such support may be dispensed with."<sup>20</sup> The same view was expressed concerning the maintenance of a French gendarmerie. Accordingly, the Council decided to request the Governing Commission "to insert in the periodical reports of the Commission to the Council detailed information as to the development of the local gendarmerie and as to the prospects of reducing the French troops."<sup>21</sup>

Concerning the trial of Saar inhabitants by French courts-martial the Council held that according to the terms of the Treaty (paragraphs 23 and 25 of the Annex to Articles 45-50)

<sup>15</sup> *L. N. O. J.*, 3d year, no. 5, 414.

<sup>19</sup> *Supra*, 191, note 25.

<sup>16</sup> *Supra*, 179.

<sup>20</sup> *L. N. O. J.*, 2d year, no. 7, 685.

<sup>17</sup> *Supra*, 190-197.

<sup>21</sup> *Ibid.*, 686.

<sup>18</sup> *Supra*, 123.

justice can only, in normal circumstances, be exercised in the Saar Territory in the name of the Governing Commission, in accordance with the law in force there on November 11, 1918, subject to any modification of the law made by the Commission after consulting the elected representatives of the inhabitants, and only by the courts named in paragraph 25. It follows that it would be contrary to the Treaty for jurisdiction to be exercised over the inhabitants by any species of court-martial or according to any other system of law.

The Council then admitted that in an emergency the Commission "could hardly be denied the right of giving jurisdiction, as far as it considered it necessary, to courts-martial constituted by the foreign garrison." It asserted, however, that it should be made clear that the authority of such courts was derived exclusively from the Governing Commission and not from the French government, and that they were only to be given jurisdiction "under very exceptional circumstances and during the existence of a serious emergency, not likely to arise now after the establishment of the Supreme Court of the Saar Basin. . . ."

At the instance of the German government the question of the French troops and the development of the local gendarmerie was placed on the Council agenda for its meeting of February 1, 1923. About a year and a half had elapsed since the Council had indicated to the Governing Commission its interest in seeing the number of troops reduced and the local gendarmerie further developed. According to the reports of the Governing Commission to the Council the number of troops had actually been reduced from between 5000 and 6000 available for duty in March, 1921, to 2736 (nominal strength 4500) available for duty in February, 1922.<sup>22</sup> The local gendarmerie, however, showed no vigor at all, remaining stationary at 155 men.

Mr. Tang Tsai Fou, representative of China on the Council, reported on the question, reviewing the contentions of the German government, the answers of the Chairman of the Governing Commission, and the position the Council itself had taken on the question. He then presented a resolution, which was adopted by the Council, in which the latter reaffirmed its previous resolutions on the subject, requested the Governing Commission to adopt measures to increase the strength of the local gendarmerie, and finally indicated an abiding

<sup>22</sup> *L. N. O. J.*, 4th year, no. 3, 361.

interest in the subject by resolving that "at its next session it will consider the programme drawn up by the Commission."<sup>23</sup>

This resolution had a slightly stimulating effect on the local gendarmerie. President Rault shortly afterward submitted a program for increasing the gendarmerie from 155 to 355 men during the year 1923. At its meeting of April 23, 1923, the Council heard the report of its Rapporteur on this proposed increase, which concluded with the following observation:<sup>24</sup>

This development will, in the opinion of the Chairman of the Commission, make for an improvement in the situation, but I feel that this is only a beginning. I would suggest, therefore, that the Governing Commission, before adopting its budget for 1924-1925, should submit for the consideration of the Council its programme for the increase of the local gendarmerie during that period.

A resolution embodying these sentiments was then adopted by the Council. Its effect will be noticed in connection with later developments to be taken up shortly.<sup>25</sup>

These matters in which the Council of the League has employed pressure to secure a modification or change of policy on the part of the Governing Commission must be recognized as exceptional. For the most part the Council has not intervened, but has left the Commission full liberty of action. Not only has this been true, but it has given its moral support to the Commission in one way or another. A conspicuous example of this support is to be found in a measure taken by the Council in 1922, concerning the tenure of the Governing Commission. Although the Treaty provided for annual appointments, the policy of the Council had been to reappoint the members of the Governing Commission on the expiration of their terms.<sup>26</sup> On March 26, 1922, the Council went much further and assured the members of the Governing Commission that it would, barring exceptional circumstances, renew their mandates up to the beginning of 1925.<sup>27</sup> It reserved its rights under the Treaty, however.

<sup>23</sup> *L. N. O. J.*, 4th year, no. 3, 364. Branting of Sweden, a very active and vigorous figure on the Council, added the hope that the development of the local gendarmerie would result in the gradual withdrawal of the troops "in the near future."

<sup>24</sup> *Ibid.*, no. 6, 682-683.

<sup>25</sup> *Infra*, 230-232.

<sup>26</sup> From 1920 to 1923 the personnel of the Commission did not change except for the resignation of Alfred von Boch (Saar member) and his successor, Dr. Heetor.

<sup>27</sup> *L. N. O. J.*, 3d year, no. 5 (Part I), 418.

Whether this action of the Council can be reconciled with a strict and literal reading of the Treaty is doubtful, but that it accords with the general intent of the framers of the Treaty is less open to question. Professor Haskins, who is as well qualified as anyone and better qualified than most persons to speak the mind of the framers, says that "it was anticipated that reappointment would be denied only in case of inefficiency or abuse of power, and that normally members would serve for a number of years."<sup>28</sup>

The Council's decision was apparently based on the belief that a five-year tenure was necessary to enable the Governing Commission to complete the program it had started, insure continuity of policy, tranquillize the situation in the Saar, "and diminish the political difficulties which necessarily arise from annually renewing the Commission."<sup>29</sup> It was to prove, however, ill-calculated or at least insufficient to accomplish these objects.<sup>30</sup>

The Saar régime cannot, of course, be explained solely in terms of what the Governing Commission and the League thought was intended by the provisions of the Treaty of Versailles. After all, "the League" has significance chiefly as a new technique in international relations employed by the member nations for the solution of various kinds of international problems, rather than as a new species of self-directed super-government. The fact is that the members do not divest themselves of the habiliments of nationalism and leave those of their foreign policies that are more particularly based on self-interest at the door as they enter the Council chambers of the League. The League atmosphere, to be sure, may be more conducive to the functioning of the "international mind" than the particularistic atmosphere of foreign offices, but it is still true that governments send their representatives into the meetings of the League with instructions on all questions in which these governments are interested.

It has likewise been true that two Powers in the League, by virtue of their interest, power, and influence practically determine what the League shall do and what it shall not do on all important questions.

<sup>28</sup> *Foreign Affairs*, New York, I, no. 2 (December 15, 1922), 48.

<sup>29</sup> *L. N. O. J.*, 3d year, no. 5, Part I, 418.

<sup>30</sup> All the members of the Governing Commission with the exception of the Canadian member were *persona non grata* to the Germans, and the program, as has been pointed out, was precisely what the Germans did not want to see carried out. For these and other reasons three of the five members of the Governing Commission were to resign during 1923 and 1924.

These Powers have been France and Great Britain. Japan has been interested in the League, but on European questions she has naturally acted with reticence. Italy, until recently, has not taken League processes very seriously.<sup>31</sup> The other Powers represented on the Council have for the most part tended to follow the lead of Britain or France.<sup>32</sup> Thus, at least as far as the Council is concerned, the tendency has been for decisions to be determined by France and Great Britain.

Prior to 1923 several circumstances combined to give France a preponderant and often decisive influence in the decisions of the League pertaining to the Saar. In the first place, the Saar question was generally regarded as of minor importance, and, with the exception of France, the members of the League were not especially interested in it. France, on the other hand, being vitally interested in the question, took the initiative when Saar questions were before the Council for decision; and because of this special interest and vigorous initiative on her part, together with the lack of interest and acquiescent attitude of the other Powers, France met with little opposition.

Great Britain, whose industrial and commercial interests led her to take an active interest in Danzig, another League problem, and to exert considerable influence in the handling of the Danzig questions by the League,<sup>33</sup> had no commercial stake in the Saar, and, prior to the French entry into the Ruhr, seemed disposed to allow France a free hand in the Council as far as Saar matters were concerned. Indeed Lord Balfour made it a point in the Third Assembly of the League to defend the Saar régime without qualification.<sup>34</sup>

Finally, Britain and other nations, animated by a desire to have the League survive and become a more and more helpful factor in international relations, have been aware of the weak hold it has had on the French imagination,<sup>35</sup> and on questions such as the Saar, in which

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<sup>31</sup> Mussolini apparently first made the discovery of the League's possible influence at the time of the Corfu enterprise.

<sup>32</sup> Since 1923 Sweden may be regarded as, to some extent, an exception. *Infra*, 210-211, 215-216; 167, 170-171.

<sup>33</sup> See Bowman, *The New World*, 356. It is interesting to note that the British nominee for the important post of High Commissioner of Danzig has always received the favorable vote of the Council; likewise that a French national has continued to hold the chairmanship of the Saar Basin Governing Commission until recently.

<sup>34</sup> Records of the Third Assembly, Plenary meetings, I (1922), 66-67.

<sup>35</sup> The French had wanted a very different kind of League from the one fashioned by the Anglo-Saxon artisans in 1919. (See Baker, *op. cit.*, III, 152-162, for official French plan for a League of Nations.) Until recently, at least, most Frenchmen have viewed the League with polite skepticism.

the utility of the League to France might be demonstrated,<sup>36</sup> they have been disinclined to put the League in the position of thwarting, too much, French aspirations.<sup>37</sup>

Under these circumstances, and by virtue of her rights under the Treaty, France enjoyed from 1920 to 1923 almost as much power in matters pertaining to the Saar as she would have possessed had the Protectorate demanded by her in 1919 been granted. The means of securing a political and administrative régime in the Saar favorable to French interests lay in the control of a majority of the members of the Governing Commission and in having the Chairmanship of the Commission in friendly hands. It has already been noticed that the Chairmanship and, as a consequence, the executive power of the Commission, was given to the French member at the time the Council set up the Commission.<sup>38</sup> He has been regularly reappointed to the position each year.<sup>39</sup>

The majority of the original members of the Governing Commission were all known to be French in their sympathies at the time they were appointed. Indeed at least two of them were proposed by France.<sup>40</sup> When the Saar member, von Boch, resigned in August, 1920, Dr. Hector, who had recommended himself to the French as early as July, 1919, when he was mayor of Saarlouis, by his expressions of loyalty to France,<sup>41</sup> was chosen by the Council, on the recommendation of the agreeable M. Caclamanos, as von Boch's successor.<sup>42</sup>

<sup>36</sup> A French supporter of the League, in arguing its benefits to France, points out that if the League did not exist it would be necessary to invent one for the Saar, for, he reminds his countrymen, the Powers would oppose outright annexation of the Saar. But would this new League, he continues, be as favorable to the French interests as the present one? The Governing Commission, for example, has a French President. "Les avantages qui pleuvent résulter pour la France de ce choix sont évidents." (Brunet, R., *La Société des Nations*, 260.)

<sup>37</sup> Indeed it has been asserted that it was England's "considered policy . . . to give France a free hand in the Saar." (*New Statesman*, XXI, 168.)

<sup>38</sup> *Supra*, 140.

<sup>39</sup> The French have not taken kindly to suggestions that the chairmanship should be put in other hands, or rotated. See, for example, the editorial by the late Philippe Millet (*L'Europe Nouvelle*, June 30, 1923).

<sup>40</sup> M. Rault (French) and Count Moltke-Huitfeldt (Dane). The Danish government did not desire to nominate Count Moltke for a position on the Governing Commission; nevertheless he was appointed (*L. N. O. J.*, 4th year, no. 8, 911). His long residence in Paris where his father had held the post of Danish Minister for 35 years (*ibid.*) and the fact that at one time Count Moltke had held a commission in the French navy, may possibly have contributed to his appointment. He was frankly pro-French in his views.

<sup>41</sup> Tardieu, *op. cit.*, 279. See also memorial of March 13, 1923, from four of the political parties on the Saar represented on the Advisory Council, to the Council of the League on: *L'affaire Hector et ses conséquences* (Hoover War Library, Stanford University).

<sup>42</sup> *L. N. O. J.*, no. 7 (October 1920), 401, 404.

When Dr. Hector in turn was forced to resign his post after the Germans had forced him to admit certain charges against him which he had at first denied,<sup>43</sup> he appointed as his substitute M. Julius Land. When the question of choosing a successor to Dr. Hector came before the Council, the vigilant French representative, M. Hanotaux, proposed the name of M. Land and the latter was then elected.<sup>44</sup> Thus the French virtually controlled four of the five members of the Commission.<sup>45</sup>

With these facts in mind there is no occasion for surprise at the attitude taken and the policies adopted by the Governing Commission. Furthermore it was not strange that a Frenchman should be appointed Secretary-General of the Commission<sup>46</sup> to assist the French President, that the majority of the foreign officials brought into the Territory by the Governing Commission should be Frenchmen,<sup>47</sup> and finally that the French representative on the Council of the League of Nations should be the one to rise to a vigorous defense of the Governing Commission when it was seriously attacked.<sup>48</sup>

The "considered policy" of Great Britain—or was it one of "salutary neglect"?—which enabled France to play this decisive part in Saar affairs was not to survive, however, certain strains that were put upon it. In the first place, the governments of Lloyd George, Bonar Law, and Baldwin could hardly be expected to preserve their benevolent neutrality regardless of the attitude of France on other matters of vital interest to Great Britain. The unyielding and—from the English standpoint<sup>49</sup>—the ill-advised and distasteful foreign policy of M. Poincaré, culminating in the occupation of the Ruhr in January, 1923, effectively aroused the suspicions of Englishmen as to the ultimate objective of France's continental policy, caused a more searching scrutiny of French activities in all parts of Europe, and stiffened English opposition to the extension of French political influence and control on the continent.

<sup>43</sup> See annexes I, II, and III of the memorial of March 13, 1923, for documents in connection with the Hector controversy.

<sup>44</sup> *L. N. O. J.*, 4th year, no. 6 (June 1923), 598. *Infra*, 211.

<sup>45</sup> One commentator on Saar affairs affects surprise that the fifth member (the Canadian, Waugh) was not a *French* Canadian.

<sup>46</sup> M. Morize.

<sup>47</sup> *Supra*, 171, note.

<sup>48</sup> *Infra*, 214–215, and *passim*.

<sup>49</sup> I do not, of course, refer to the small minority of Englishmen whose views of M. Poincaré's policy were expressed by such papers as the London and Paris *Daily Mail*.

Whether a direct cause and effect relationship can be established between the occupation of the Ruhr by France and the sudden dawn of a deep solicitude for the Saarlanders by the English parliament and government, as certain Frenchmen suggested to the writer in the summer of 1923, is doubtful.<sup>50</sup> Nevertheless it is true that the English government acquiesced in and even gave friendly support to the Government of the Saar during 1920, 1921, and 1922,<sup>51</sup> but shortly after the Ruhr occupation adopted quite a different attitude.

This changed attitude was revealed definitely for the first time in the Council meeting held on April 23, 1923, although the minutes seem to reveal that the British representative, in so far as he did not concur with France on Saar matters, was hesitant in part because he was somewhat unprepared on some of the questions that arose and was possibly without full instructions from his government on them.<sup>52</sup> One of the questions concerned a provisional decree for the maintenance of public order and security which the Governing Commission had issued; the other concerned the appointment of a successor to the Saar member of the Commission, Dr. Hector, who had resigned.<sup>53</sup>

The issuance of the decree was occasioned by a strike of the coal miners of the Saar which occurred on the fifth of February and lasted for 100 days.<sup>54</sup> M. Rault and the French were convinced that the strike was a political maneuver of the Germans designed to embarrass

<sup>50</sup> The strike of 100,000 workers in February, 1923, and the issuance of a repressive decree by the Governing Commission, together with the Hector "scandal," were perhaps in themselves sufficient not only to draw attention to the Saar, but to arouse suspicions not hitherto entertained concerning the conduct of the League's government.

<sup>51</sup> M. Hanotaux at the Council meeting of July 3, 1923, when the Saar government was under fire by the British representative, Lord Robert Cecil, adroitly enumerated the many occasions on which the representatives of Great Britain on the Council, including Lord Cecil, had expressed their approval of and confidence in the Governing Commission and its policies (*L. N. O. J.*, 4th year, no. 8, 864-866).

<sup>52</sup> Mr. Edward Wood (President of the Board of Education) was the British representative. For minutes of the Council meeting see *L. N. O. J.*, 4th year, no. 6, 592-598. See also *Parl. Debates, Commons*, CLXIII, no. 56, 2640-2654, for explanation of Mr. Wood in the House of Commons concerning his attitude in the Council meeting. From the remarks of Mr. Herbert Fisher, a predecessor of Mr. Wood on the Council of the League, the British seem to have been in a chronic state of unpreparedness on Saar matters: "It is very difficult for the British Delegate to have sufficient control over what is being done in the Saar district. He arrives in Geneva. Suddenly he is plunged into a great mass of unfamiliar details. He has to come to such conclusions as he can. Naturally, he is guided very largely by the expert advice he receives either from the officials of the League or from the administrators in the Saar itself" (*ibid.*, 2665-2666).

<sup>53</sup> *Supra*, 208.

<sup>54</sup> Fourteenth Period, Rept. Gov. Com., *L. N. O. J.*, 4th year, no. 7, 737.

France in the Ruhr and the Rhineland as well as in the Saar.<sup>55</sup> Convinced likewise that restrictive measures were necessary to prevent serious disorders in the Territory, M. Rault and his Danish and Belgian colleagues voted the provisional decree.<sup>56</sup>

The decree was indeed a remarkable one. By its terms it became a serious offense, punishable by imprisonment for five years and a possible fine in addition, for a person publicly to offer adverse criticism of the Treaty of Versailles! To insult or traduce the League of Nations or any of its members or the States signatories of the Treaty of Versailles was likewise an offense for which the same punishment might be meted out. Other provisions were scarcely less Draconian. Finally, it was provided that cases under the decree were to be tried before a special court appointed by M. Rault himself.<sup>57</sup>

At the instance of Branting of Sweden the question of the issuance of this decree was placed on the Council agenda for its April meeting. When the matter was up for discussion, Branting expressed his disapproval of the decree at some length, M. Rault defended the action of the Commission, and M. Hanotaux of France warmly supported him. Mr. Wood, though cautious in his comments, did not conceal his misgivings. He was interested in the question as to whether the entire Commission had agreed on the necessity of the decree,<sup>58</sup> and he wondered whether the decree was likely to inflame or to soothe public feeling. He was sure that such a decree in his own country would have rendered the position of the Government more difficult. Thus the British representative, though less outspoken than the representative of Sweden, clearly indicated his general agreement with Mr. Branting rather than with M. Hanotaux.<sup>59</sup>

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<sup>55</sup> *Ibid.*, 738, for the following remark of M. Rault: "The miner's strike in the Saar Basin presented abnormal features both on account of its duration and the amount and regularity of the strike pay issued to the strikers. It may therefore be concluded that it was not throughout of a purely economic character for all who were concerned in it, and that it was not unconnected with events which were occurring simultaneously on the banks of the Rhine and in the Ruhr." See also the interpretation of the special correspondent of *Le Temps* in its issue of June 13, 1923.

<sup>56</sup> Mr. Land, who was at the time substituting for Dr. Hector, did not vote on the question. Mr. Waugh, the Canadian, voted against the decree. (*L. N. O. J.*, 4th year, no. 8, 925-927.)

<sup>57</sup> See *L. N. O. J.*, 4th year, no. 4, 421-424, for text of the decree.

<sup>58</sup> *L. N. O. J.*, 4th year, no. 6, 598; note 56 above.

<sup>59</sup> In the course of his explanation in the House of Commons Mr. Wood said: "I kept throughout this matter in constant communication with Mr. Branting. I made no concealment of the fact in public or in private that I disliked the decree as much as he did, but I was not relieved of the obligation to have regard to the German propaganda in the Saar territory, if such, in fact,

The failure of France and Britain to agree was even more pronounced when M. Hanotaux proposed the appointment of M. Julius Land as Saar member of the Commission. The minutes of the Council meeting are quite brief at this point but they reveal that Mr. Wood, as well as Mr. Branting, said he could not vote for M. Land's appointment.<sup>60</sup> Mr. Wood said further that he must reserve complete liberty of action on behalf of his government when the question of renewing the appointment of M. Land should come up for consideration. He regarded this nomination "as different from that of the other members of the Commission."

Mr. Wood said later in the House of Commons:<sup>61</sup>

I questioned the wisdom of the nomination of Mr. Land on two grounds, firstly, that it appeared to me to be an unreasonable proposal to make to the Council to invite them to assent to a single name when no steps had as yet been possible or at any rate had been taken, to submit other names out of which they might choose what might seem to them the best. I accordingly suggested that the appointment should be delayed for a short time during which inquiries might be made as to the possibility of finding other names from which the Council could then select. The other reason why I was unwilling to support the nomination of Mr. Land was that I was not satisfied, and I am not satisfied today, that he discharged or discharges what I conceive to be the principal functions for which a member of the Governing Commission should exist, namely, the function of being able to act, and being accepted as acting for the population of the Saar. . . .

The debate in the House of Commons during which the foregoing remarks were made occurred on May 10, on which occasion the government of the Saar was most severely criticized by Mr. Asquith, Sir John Simon, Lord Robert Cecil, and others. The decree of the Governing Commission was regarded by Mr. Asquith as "in entire defiance of all the principles which all democratic countries and all free countries have been endeavoring to practice." Lord Cecil thought it "one of the examples of the spirit that has been produced by the recent action in the Ruhr in regard to the whole of European affairs . . . and worthy of Prussian militarism at its worst. . . ."<sup>62</sup>

In the course of the debate, in which support of the Saar Government was noticeably lacking among the Government benches as well

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as stated by the Chairman of the Commission prevailed, and I had no other means of information except through the Chairman of the Commission." (*Parl. Debates, Commons*, CLXIII, no. 56, 2647.)

<sup>60</sup> *L. N. O. J.*, 4th year, no. 6, 598.

<sup>61</sup> *Parl. Debates, Commons*, CLXIII, no. 56, 2640-2641.

<sup>62</sup> *Ibid.*, 2650, 2657.

as among spokesmen of the Opposition, the whole Saar régime, from the personnel of the Governing Commission to the policies of the Commission, was subjected to the most vigorous and outspoken criticism.<sup>63</sup> Mr. Wood announced that it was the Government's intention to propose to the other governments represented on the Council that "an impartial inquiry conducted by the machinery of the League into the question of the general administration of the Saar Territory" should be made.<sup>64</sup> Others suggested that the question of the occupation of the Ruhr should be considered by the League at the same time, the two questions being "very closely linked together."<sup>65</sup>

When it became known in France that the British government was determined to press for an international inquiry into the administration of the Saar, opposition immediately arose. Philippe Millet criticized the Treaty régime as complicated and paradoxical, holding that it had only been due to "l'esprit politique" of the French in the Saar and to the majority of the Commission that troubles had not arisen before. He charged that the movement for an inquiry had as its indirect object the taking away from France of the chairmanship of the Commission in 1924 and suggested a liquidation of the problem as follows: France to have the mines in perpetuity, the Saar to be returned to Germany subject to certain forms of control.<sup>66</sup>

Leon Bourgeois argued that the Treaty gave the Commission sovereign power, the Council having the right to appoint and dismiss the members of the Commission, but no right of direct intervention in the administration of the Territory. Furthermore, an inquiry would ruin the authority of the Governing Commission and destroy the possibilities of utilizing in future an international administration.<sup>67</sup> Other writers voiced a similar opposition to the proposed investigation.<sup>68</sup>

The British Government, however, had openly committed itself to such an inquiry and the state of English public opinion was such that it could scarcely withdraw had it been so inclined. Accordingly on June 21 the British government, which had previously asked for the

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<sup>63</sup> Mr. Fisher, although pointing out that many of the charges brought by the Germans against the Commission had proved false when investigated, subjected both the personnel and the policies of the Governing Commission to adverse criticism.

<sup>64</sup> Parl. Deb., *op. cit.*, 2649.

<sup>65</sup> *Ibid.*, 2662-64, 2672.

<sup>66</sup> *L'Europe Nouvelle*, June 30, 1923, 810-811.

<sup>67</sup> *Le Temps*, June 8, 1923.

<sup>68</sup> See, for example, Priou, *op. cit.*, 198.

insertion in the agenda of the next Council meeting an inquiry into the administration of the Saar, drew up a memorandum to the League pointing out the necessity of examining certain provisions of the Treaty in order that there might be a "clear agreement" as to their interpretation, and adding:<sup>69</sup>

His Majesty's Government feels that, as the League of Nations is the trustee for the Saar Basin and as the Governing Commission represents the League, it is the duty of the Council to make sure that the administration is being carried on in accordance with the Treaty of Versailles: it will be for the Council itself to determine the mode of inquiry to be adopted. Whatever form of inquiry may be decided upon, it will be necessary for the Secretariat to see that the necessary witnesses and documents are available if required.

At the next meeting of the Council, July 2, which was private, Lord Robert Cecil asked for permission to make a statement during a *public session* on the proposals of the British government.<sup>70</sup> This precipitated a debate with M. Hanotaux, who argued that such a "delicate question" should first be discussed privately and only later at a public session.<sup>71</sup> Neither Lord Cecil nor M. Hanotaux would yield on the point and, finally, after the Spanish and Japanese representatives had tried unsuccessfully to reconcile the conflicting opinions of the two, a decision on the matter was deferred until the following meeting. In the meantime, however, an agreement was reached to hold a public meeting for the discussion of the question on July 3. Cecil had carried his point.

As was to be expected the principal participants in this discussion were Lord Cecil and M. Hanotaux, although the active Swedish representative, Branting, was heard from, before the close of the meeting, in support of the position of Cecil. The latter, in a very restrained careful speech in which he praised the Commission for its administrative achievements in the Saar, laid especial emphasis on the fact that, according to the Saar provisions of the Treaty and the explanation of M. Clemenceau made in answer to the German objections at the time of the Peace Conference,<sup>72</sup> the Governing Commission, including its Chairman, was solely responsible to the League of Nations, and not to France.<sup>73</sup> He also drew the conclusion from M. Clemenceau's letter that it was the duty of the Council of the League to supervise the Government of the Saar.

<sup>69</sup> *L. N. O. J.*, 4th year, no. 8, 939.

<sup>70</sup> *Ibid.*, 854.

<sup>71</sup> *Ibid.*, 854-856.

<sup>72</sup> *Supra*, 133.

<sup>73</sup> *L. N. O. J.*, loc. cit., 859-861.

Although he spoke briefly of the Governing Commission's provisional decree, expressing the opinion that there should be further investigation of the circumstances surrounding its promulgation, and asking for an inquiry on these matters, Lord Cecil thought the Council itself should conduct the inquiry rather than appoint a special commission for the purpose. If such a commission were sent to the Saar the Governing Commission, he thought, could scarcely carry on its administration with any degree of success. In any case the appointment of an investigating commission would be an expensive step and would needlessly complicate the machinery of the League. The inquiry by the Council, should, nevertheless, be a serious one and all members of the Governing Commission instead of simply the Chairman should be invited to Geneva and questioned as to the manner in which they have been discharging their duties. The minutes of the meetings of the Commission should be put before the Council at the same time.<sup>74</sup>

M. Hanotaux rose to a general defense of the Governing Commission. After quoting extensively from the remarks of Council members—particularly the different British representatives that had sat on the Council—to show that they had uniformly approved and even praised the Commission for the way in which it was handling a difficult task, he asserted that there had been "complete agreement between the Council and the Governing Commission" prior to the time of the strike and the issuance of the provisional decree.<sup>75</sup> The decree itself was fully justified in view of the circumstances under which it was issued. Indeed M. Hanotaux felt that the Governing Commission's wise policy had been responsible for the prevention of serious disorders and the settlement of the strike.<sup>76</sup>

M. Hanotaux, as a basis for the legal justification of the Commission's action, pointed out that it was not merely an administrative organ, but a "real Government." He further expressed himself as follows:<sup>77</sup>

According to the Treaty, there is one point which governs the whole situation, namely, that France has particular rights in the Saar. This is the point on which everything else necessarily depends. France

<sup>74</sup> *Ibid.*, 863-864.

<sup>75</sup> *Ibid.*, 864-866. The statement of M. Hanotaux was scarcely accurate. *Supra*, 132-136.

<sup>76</sup> *Ibid.*, 868-869. It may be noted that the strike ended after a wage increase, which had at first been refused, was granted.

<sup>77</sup> *Ibid.*, 867. Lord Robert Cecil had said that the Treaty had two objects: to secure the rights and welfare of the population, and to secure to France complete freedom in working the mines (*ibid.*, 860).

is the proprietor of the mines; France has the right to exploit the mines without any obstacles or restriction being placed upon the use or exploitation of this property—these expressions are repeated on several occasions.

Moreover, the future destiny of the Territory is held in suspense pending the future plebiscite.

These two rights are in no way inconsistent: one of them is concrete, immediate, and of constant application, whereas the other lies in the future, and herein lies the difficulty. The League of Nations is the trustee of the Allied Powers for the maintenance of these two rights. . . .

As to the proposed examination into the affairs of the Saar M. Hanotaux welcomed it. It must be an “examen,” however, and not an “enquête.”<sup>78</sup> As Lord Robert Cecil had said, it should be a simple extension of the usual work of the Council. Even so, the French representative felt it necessary to make an observation, and give a warning:

Let us beware of giving the impression that we are governing from Geneva and simply governing with texts. . . . One cannot govern a country in the peculiar position of the Saar; one cannot, in fact, govern any country from a distance. The art of government is, beyond everything else, the art of understanding the psychology of the peoples. I therefore, with the experience of history behind us, warn you that you cannot govern from a distance or with texts. You can only govern on the spot and with men.<sup>79</sup>

M. Hanotaux also felt that he should place the Council on its guard against propaganda.

Do not open the door to propaganda for it is propaganda which is contemplated. . . . The danger is that every two months or every six months fresh complaints, as we see now, come before us with the object of raising perpetually the same questions. . . . You are in fact confronted with a general attempt to nibble at the Treaty of Versailles. This is the system against which I warn you, the system of weakening the Treaty or confounding it first on one point and then on another in order to ruin the very foundation of the existing European system.

Mr. Branting spoke briefly in support of the proposal of the British government. He thought, as Lord Robert Cecil had said and as M. Hanotaux had emphasized, that such an inquiry would doubtless show that from a “technical point of view” the administration of the Saar had been praiseworthy. He thought personally that “the chief

<sup>78</sup> M. Hanotaux explained that the word “enquête” was used in France in cases where there was a suspicion of guilt. In the case at issue there was no question of guilt, therefore they would merely proceed with a careful “examen.”

<sup>79</sup> *Ibid.*, 870–872, for remainder of the discussion.

reproach which might be addressed to those who have administered the Territory is that they have not succeeded in collaborating with the population and in gaining its confidence." He was convinced that "a democratic development of the present régime within the limits of the Treaty would result in an improvement of the position so far as the relations between the Government and the population are concerned. . . ." In order that the Council might be in a position to form an opinion on this aspect of the problem he suggested that it should hear not only the members of the Commission but some representatives of the population of the Saar as well. As for M. Hanotaux's warning about propaganda he believed that "an injustice is being done to the population of the Saar when it is stated that its elected representatives are merely agents of interests more or less external to the Territory of the Saar, engaged in this propaganda."

At the conclusion of the discussion it was unanimously agreed, in principle, that an inquiry should be held. At its next meeting the Council adopted a resolution to give effect to its decision in which it was said that "in order to put an end to misunderstanding and to arrive at a final settlement of the controversies which have arisen" the Council would itself make an immediate inquiry. The Secretariat was directed to send for the members of the Governing Commission and instruct them to bring to Geneva the necessary documents.

It was generally felt in League circles that a crisis had been reached in the affairs of the Saar. Except for the French, however, it is probably true that there was a conviction that thorough investigation was necessary to vindicate the League in the matter, clear the air, and prepare the way for desirable changes in the personnel of the Governing Commission.

## CHAPTER VIII

## THE INQUIRY OF 1923 AND LATER DEVELOPMENTS

The inquiry into the stewardship of the Governing Commission was held by the Council behind closed doors. M. Hanotaux requested it. Lord Robert Cecil, whose well-known predilection for open sessions might have led one to suppose that he would stand out for an open hearing, offered no objection to this particular meeting being held in private inasmuch as "personal questions might be raised."<sup>1</sup> In the meantime a delegation from the Saar, prepared to present the case of the Saar population, desired to be heard by the Council. It was unsuccessful, however, the Council confining itself to a lengthy interrogation of the members of the Governing Commission.<sup>2</sup>

The inquiry began at the Council meeting of July 6, with all members of the Governing Commission present.<sup>3</sup> Lord Robert Cecil examined the Chairman of the Commission at some length, inquiring especially as to his conception of the rôle of Chairman, and of the relationship of the Chairman with the Governing Commission and with the French government. The replies of M. Rault to these and other questions put to him furnish one an additional insight into the spirit as well as the inner workings of the Saar government.

<sup>1</sup> *L. N. O. J.*, 4th year, no. 8, 908.

<sup>2</sup> The most prominent member of this delegation, Hermann Röchling, the steel magnate, was in bad odor with the French for his activities in connection with the stripping of French factories of machinery during the war. He had thwarted the French, too, in their attempt to get a controlling interest in the Röchling steel works as they had successfully done in the case of other German iron and steel industries in the Saar. The French President of the Inter-allied Rhineland High Commission, in order to prevent Röchling from reaching Geneva, advised the Chairman of the Governing Commission on May 11 that Röchling would be expelled if he entered the occupied territory. As the only other way to get to Geneva was through French territory and as he had been condemned in 1919 by a French military court, his prospects did not seem good in that direction. He appealed to M. Rault, citing his alleged treaty rights; M. Rault wrote to M. Tirard, President of the High Commission, forwarding Röchling's protest, but the decision was not revoked. Röchling, nevertheless, got to Geneva surreptitiously.

<sup>3</sup> Full minutes of the meeting were subsequently published, and what follows is based upon these minutes.

Lord Robert Cecil was interested in learning from M. Rault how the work of the Governing Commission was distributed, whether all the members considered all questions or whether certain questions were handled individually. M. Rault explained that as Chairman of the Commission he had been in a position to extend his powers and that he might have concentrated all the powers of administration in his own hands, but that he had considered it better and more in accord with the spirit of the Treaty to distribute the duties of government among the different members. In the distribution, however, it is to be noted that M. Rault fared rather well. He explained that as French member of the Commission and Chairman he had necessarily to take the portfolio of Foreign Affairs. In addition to this department the Ministry of the Interior and of Public Safety had been given to him at his express request. And he had also been given Commerce, Industry, and Labor.<sup>4</sup>

M. Rault then pointed out that each member of the Commission had been regarded as absolute master in his own particular ministries, except that some of the higher officials had been chosen by the member of the Commission concerned, with the agreement of the Chairman, or by the Commission as a whole. As far as ordinary questions of administration were concerned each member was free, but if a question of changing a law or regulation was involved, or a matter requiring an expenditure of money, or some question of interest to the whole Commission, it was brought before the weekly meeting of the Commission.<sup>5</sup>

During the first year the reports of the Governing Commission had been drawn up by the Chairman alone under this authority as executive of the Commission. In view of the special duties of the Chairman, M. Rault explained, the work done by him necessarily formed the greater part of these reports. During the next two years, however, a different procedure was adopted. Each member of the Commission made a note of what he wanted inserted in the report concerning his own department and the Chairman inserted this in the report without change. Recently M. Rault has adopted a still different procedure. In view of the fact that the last report contained observations of a grave nature on the subject of ordinances which had not been adopted unanimously by the Commission, the Chairman had read it to the

<sup>4</sup> *L. N. O. J.*, 4th year, no. 8, 910.

<sup>5</sup> In view of the fact that Mr. Rault possessed the key ministries the effect of this system was to add considerably to his power.

Commission after he had drafted it. M. Rault then expressed his willingness to adopt the same procedure in the case of future reports should his colleagues desire it.<sup>6</sup>

In reply to questions from Lord Robert Cecil concerning his relations with the French government M. Rault said that it was evident that the French member of the Commission had special duties to fulfil. He had to see that the advantages secured to France by the Treaty were maintained. It was therefore clear that he would have to maintain relations with the country of his origin, and pay attention to indications given him by France with a view to the defense of her special interests in the Saar.<sup>7</sup>

M. Rault indicated that he acted in two different capacities. From the standpoint of general administration he acted not as the French member but as the Chairman of the Commission. But he was convinced that the Chairman of the Governing Commission must have relations with certain French ministries whatever his nationality. When it came to a question of taxing the mines, for instance, he must enter into negotiations with the French Minister of Public Works. As the Saar was within the French customs régime it was necessary to have relations with the French Ministry of Finance. In January, 1925, when the French tariff between the Saar and Germany would go into effect it would be necessary for the Chairman to have relations with the French Ministry of Commerce and Industry, and even with the Ministry presided over by the Prime Minister of France.

The Chairman then pointed out that he must have continuous relations with the French government for other reasons as well. There were, for example, difficulties connected with the Ruhr occupation. Decisions of the Interallied High Commission in the Rhine territories affecting the commerce of the Saar made it necessary to enter into negotiations with the French government in order to protect Saar interests. It was likewise necessary to have relations with other governments. For example, the Chairman was in correspondence once or twice a week with the German government.

Lord Robert Cecil remarked that he had heard that the Governing Commission had established an office at Paris, and he thought M. Rault could inform him about it. M. Rault said that it had been set up at the seat of the Paris office of the League; that it served him and his colleagues when they went to Paris as well as promoted the economic

<sup>6</sup> *L. N. O. J.*, 4th year, no. 8, 917-918.

<sup>7</sup> *Ibid.*, 909, 913.

interests of the Saar. Business and commercial men seeking information about the Saar could have their questions answered at this office.<sup>8</sup>

Pursuing farther the question of the relation of M. Rault with the French government Lord Robert Cecil wanted to know whether it had been his practice to communicate letters and correspondence with other governments to the members of the Governing Commission. M. Rault replied that such correspondence was brought before individual members in accordance with their duties and oftentimes before the whole Commission. Wherever a decision had to be taken on a question, the correspondence was placed before the entire Commission.

In reply to the question as to whether M. Rault would see any objection to communicating all his correspondence with the French government to the members of the Governing Commission, M. Rault fell back on his distinction between the Chairman of the Governing Commission and the French member of the Commission. The French member might have to make certain observations to the French government on certain questions, possibly even enter into discussions with it. M. Rault thought it would not be possible even in the general interest to communicate these letters. Everything addressed to the Chairman of the Governing Commission as such could be communicated to the Commission, but this would not apply to letters addressed by France to the French member of the Governing Commission.

When the question of the retention of the French troops was raised M. Rault, supported by M. Hanotaux, would give no assurances even as to their ultimate removal. Lord Robert Cecil remarked that the presence of French troops in the Saar was anomalous, and that they ought not to be retained longer than was necessary, whereupon M. Hanotaux asserted that the Council had taken a decision by which it approved the presence of the troops. Cecil then pointed out that the Council had always said that the troops were an additional force that should not remain permanently and that as soon as possible the maintenance of order should be entrusted to a local gendarmerie. M. Rault expressed a doubt as to whether the Council had been that precise.

M. Rault also made it plain that he was not disposed to grant that the Council had any right to decide the question. The right to interpret its powers had been given by the Treaty to the Commission. He went on to say that it was necessary to know whether, even if a local gendarmerie existed, in a grave emergency the Governing Commission

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<sup>8</sup> *Ibid.*, 913, 914.

had not an undoubted right to appeal to any force placed at its disposal. "At the moment" the Commission was continuing, in agreement with the Council, the development of a local gendarmerie as far as the possibilities of recruiting and finance allowed.

Inquiry was also made as to the use of the troops during the strike of the miners in February. The mining administration, according to M. Rault, had requested him to have additional troops brought into the Saar and he had done so without asking the members of the Governing Commission for authority. As Minister of the Interior in charge of public safety he knew quite well what should be done. The total number of troops was between 5000 and 6000 men. Of these 4000 had been necessary to guard the mines. After he had called in the troops M. Rault informed the Commission of his action.<sup>9</sup>

The answers of M. Rault concerning the French troops did not make a happy impression on Lord Robert Cecil. He pointed out that the Council had on more than one occasion laid it down that—apart from an emergency—the system of keeping French troops in the Saar, paid by the French government, and in charge of French officers, was not a satisfactory way to maintain order and that it had urged the establishment of a local gendarmerie. He hoped, therefore, that M. Rault could tell the Council how soon he could establish such a gendarmerie and dispense with the troops. M. Rault evaded the question. He said he could not reply at the moment; that there was always the danger of serious incidents such as had happened in the Saar in 1919; that the question was a very delicate one, etc. In order to deal with any kind of incident he considered that 4000 men would be necessary. He indicated a doubt as to the possibility of increasing the local gendarmerie by more than 200 men each year.<sup>10</sup>

The question of the issuance of the provisional decree<sup>11</sup> was also raised by Lord Robert Cecil. M. Rault denied first of all that it had been inspired by the French government; he had merely informed the French government of the decree after it had been issued. It had been discussed by the Chairman and Count von Moltke-Huitfeldt, the member in charge of the Department of Justice, and they had issued

<sup>9</sup> *Ibid.*, 915–916.

<sup>10</sup> *Ibid.*, 917. If the gendarmerie only grew at the rate of 200 men a year, in 1935, at the time of the plebiscite, it would, according to M. Rault's estimate, still be over 1000 men short of the number necessary to take care of "any incident." Presumably, then the deficiency would be made up by the French troops.

<sup>11</sup> *Supra*, 209–210.

the decree on their personal responsibility. There had been violent attacks in the Saar press, hatred against the French inhabiting the Saar had been fomented, etc. From the point of view of the general interests of the Saar, and of the special interests which M. Rault, in his capacity as French member of the Commission, represented, he thought it impossible to tolerate such violence on the part of the press.

He explained that he had not submitted the decree to the advisory council because that body would not have discussed it immediately and a violent protest against the decree would have been made in the Saar. He had wanted to avoid fresh agitation. The High Administrative Court had held that it was proper to promulgate the decree at once. The decree had been promulgated on March 7. Why had it not been submitted to the advisory council when the latter body met on March 12? The agenda of this body had been prepared ten days in advance of its meeting, and it could discuss only matters included in this prepared agenda. It had been submitted to the technical committee in April, and after the advisory council had finished the agenda already referred to the decree had been submitted to it.

The decree, he continued, had been applied with liberality. As Minister of the Interior he had suspended four newspapers for twenty-four hours as a warning. These papers had published violent denunciations of the French and Belgian troops in the Ruhr. Later, on renewal of the offense, one paper had been suspended for a week and another one for a fortnight. An appeal lay against these decisions to the High Administrative Court. This court, judging each case on its merits, had sustained M. Rault in his decisions. The law, he was convinced, had had a good effect. The strike had ended without a single incident.

A careful reading of the reports of M. Rault up to the time of the inquiry would leave one with the impression that the Commission, with all its troubles, was free from internal dissension and was pursuing its purposes with remarkable unanimity.<sup>12</sup> Considering the history of most of the past attempts at international political coöperation by means of international commissions or by methods of joint control,<sup>13</sup> and having in mind the inherent difficulties and disabilities from which

<sup>12</sup> The resignation of von Boch, the first Saar member of the Commission, a few months after the Commission began its work, may be noted as the single exception revealed in the reports of the Governing Commission.

<sup>13</sup> In so far as they have dealt with matters in which conflicting national, political, and economic ambitions have been involved they have usually been complete or partial failures. See Sayre, *Experiments in International Administration, passim*.

all international political bodies, composed of men of different languages accustomed to different systems of law and government, and drawn from nations having different and often conflicting interests, must suffer to some extent, the Saar Basin Governing Commission seemed to stand out as a remarkable exception.<sup>14</sup> A clue to the solidarity of the working majority of the Commission has already been given.<sup>15</sup> That unanimity was not attained on important matters of principle, however, was revealed at the time of the inquiry.<sup>16</sup>

The testimony of Mr. Waugh, the Canadian, revealed several cases of disagreement with the majority of the members of the Commission. On the question of the 20 per cent coal tax he pointed out to the Council that the local representatives of the people had unanimously favored its maintenance.<sup>17</sup> Mr. Waugh's chief ground of difference, however, seems to have been rather on the question of the procedure leading to the final reduction of the tax to 5 per cent. He asserted that M. Rault had gone to Paris, carried on negotiations with the French government looking to the reduction of the tax, and had concluded an agreement without previously consulting his colleagues, and without asking the opinion of the member of the Governing Commission who was in charge of the Department of Finance. As the procedure was, in the opinion of Mr. Waugh, "irregular," and as the matter was of such importance that the members of the Governing Commission should have first been consulted, he and Dr. Hector had refused to acquiesce in the agreement.<sup>18</sup>

Another difference of opinion arose in connection with the communication of certain budgetary information to the French government. As explained by M. Rault in reply to a question by Lord Robert Cecil, the facts were as follows. One day there had come to the Saar the Financial Committee of the French Senate to inquire into the establishment of an office of the French State mines. This Committee

<sup>14</sup> The framers of the Treaty anticipated these difficulties, as we have seen, in the provision that the Commission could reach decisions by a majority vote.

<sup>15</sup> *Supra*, 208.

<sup>16</sup> Prior to this time, of course, those in close touch with the Saar government were aware that the unanimity was apparent rather than real, and as the time of the Inquiry approached it became more generally known that the Canadian member was at odds with his colleagues on several questions.

<sup>17</sup> *Supra*, 164–166, for an account of the Commission's policy.

<sup>18</sup> *L. N. O. J.*, 4th year, no. 8, 924. M. Rault denied that he had entered into an agreement in Paris, asserting that the French government had lodged a complaint against the coal tax rate and that he had submitted it to the Governing Commission which had taken a decision on the matter.

felt that the coal tax was too high and paid a personal visit to M. Rault, requesting him to furnish it with a statement of the receipts and expenditures of the Governing Commission for the financial year 1920–1921. M. Rault said that he refused the request but let the Committee understand that if the French government asked the Governing Commission to communicate such information the request might be granted. He undertook, indeed, in his capacity of "French Commissioner" to present the request to the Governing Commission, and received from it the authorization to communicate to the French government the information it desired. In this connection M. Rault remarked that as the French government was the principal taxpayer in the Saar its request could scarcely be denied.<sup>19</sup>

Mr. Waugh's explanation of the matter differed somewhat from that by M. Rault. He said he had submitted the accounts for the fiscal year 1920–1921 to the Governing Commission on February 22, 1923, in order that they might be forwarded to the Secretariat of the League of Nations. The Chairman of the Governing Commission, however, informed the Commission that he had received instructions from a Commission of the French Senate to send them to the French government, and contended that the French government had the right, founded on the Treaty, to ask the Governing Commission to forward the accounts direct. Mr. Waugh, on the other hand, contended that if the French government wished to receive them it should have addressed the request to the Council of the League of Nations or to the Secretary-General. A decision to forward the accounts to the French government was taken, nevertheless, against the protests of himself and Dr. Hector. As late as April he had been informed that the Secretariat had not received the accounts.

The Canadian member testified also to his dissatisfaction with the manner in which the official reports of the Governing Commission had been drafted. Although each department furnished a separate report dealing with its own administration, the conclusions of the report, dealing with matters of general policy, were formulated by the Chairman alone, although it appeared that he was expressing the opinion of all of the members of the Commission.<sup>20</sup>

<sup>19</sup> *Ibid.*, 913–923.

<sup>20</sup> *Ibid.*, 924. M. Hanotaux took occasion to remark that, though votes were taken by a majority, there could be no opinion of a minority. Once the vote was taken, the opinion of the majority became that of the Commission as a whole. Lord Robert Cecil said that this was a point which the Council would have to examine before accepting it.

Concerning the unpopular provisional decree of March 7 Mr. Waugh testified that he had thought it unnecessary; that the strike had been in existence for a month and that nothing had happened to disturb public tranquillity. Everything seemed to be orderly and the ordinary procedure of law appeared to suffice. He had also abstained from voting for the picketing decree promulgated toward the end of the strike because it contained provisions which he could not approve. He had observed no "reign of terror" such as had been described by M. Rault, and inasmuch as 75 per cent of the officials under his orders were nationals of the Saar he thought he would have known of it if any reign of terror had existed.<sup>21</sup>

Mr. Waugh concluded his remarks by referring to the decree making the franc the sole legal currency of the Saar. He thought it was excellent from the commercial point of view, but he thought differently of its political wisdom. He recognized that in practice the mark had been expelled from the Saar on account of its sudden fluctuations and rapid depreciation.

The inquiry was followed by a resolution which the Council adopted at a public meeting on July 7. The resolution was drawn by the Spanish and Belgian representatives on the Council assisted by Mr. Erik Colban, member of the Secretariat in charge of the Administrative Commissions section. It had to contain, of course, such observations as would secure the acquiescence if not the enthusiastic approval of both M. Hanotaux and Lord Robert Cecil—a difficult task.<sup>22</sup> Consequently, although to the uninitiated it seems rather pale and anemic, it did point out certain things that needed to be emphasized. For example: "The system of government in the Saar was established under the Treaty in order to assure the rights and well-being of the population and to guarantee to France complete freedom in working the French State Mines, upon which the prosperity of the country depends."<sup>23</sup>

<sup>21</sup> *Ibid.*, 925. M. Rault and Major Lambert expressed opposite opinions on this point from those of the Canadian member.

<sup>22</sup> Although the Council could take action by majority vote on Saar matters, on questions of principle it was disposed to seek solutions acceptable to all rather than risk stirring up resentment and dissatisfaction among its members.

<sup>23</sup> *Ibid.*, 930. M. Rault and the French had been inclined to put the property guaranty first and, indeed, M. Hanotaux had pointed out during the Inquiry that Article 45, which dealt with the transfer of the mines to France, came before Article 46, which spoke first of the rights and welfare of the Saar population.

It also said that the Commission was "responsible to the League of Nations for the execution of its duties in accordance with the Treaty of Versailles" and that the Commission was "collectively responsible" for the execution of the duties assigned to individual members. The longest of its short paragraphs reiterated the stand that the Council had taken on so many occasions concerning the French troops and the development of the local gendarmerie. It concluded by expressing appreciation of the administrative work achieved by the Governing Commission.<sup>24</sup>

In speaking of the resolution Lord Robert Cecil underlined that part of it which spoke of the Commission's responsibility to the League, adding that the Commission owed no allegiance to any other body whatever. Also in drawing attention to the collective responsibility of the Commission he remarked that each member of the Commission was equally responsible to the League. Mr. Branting spoke briefly, emphasizing the same points that had been made by Lord Cecil. M. Hanotaux, with still greater brevity, anticipated the action of the Council's adopting the resolution, and congratulated it on being able to reach a unanimous decision on the matter.<sup>25</sup>

The feeling at Geneva was rather widespread that the inquiry had been helpful. Even the Germans, although they had not been accorded a formal hearing, professed themselves as satisfied, and left Geneva hopeful that beneficial changes would result. It was whispered about in many quarters that the next development in the situation would be the resignations of the Danish and Saar members of the Commission. It was believed that the British intended to insist on changes in the personnel of the Commission, and developments were looked for in December, when the Council would normally consider the appointments to the Commission for the following year.

The first development, however, was altogether outside the expectations of many persons who had been following the course of events. Within less than a month after the inquiry the Canadian member had placed his resignation in the hands of the Secretary-General of the League.<sup>26</sup> Although Mr. Waugh resigned to accept a position which had been offered him by the Manitoba government,<sup>27</sup> he was led to

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<sup>24</sup> *Ibid.*, 930-931. No one had questioned the administrative efficiency of the Commission; the criticism centered on the spirit and policies of the government.

<sup>25</sup> *Ibid.*, 931-932.

<sup>26</sup> *L. N. O. J.*, 4th year, no. 11, 1482.

<sup>27</sup> The Chairmanship of the Manitoba Government Liquor Control Commission.

accept the position because he had come to the conclusion, which the inquiry apparently had not changed, that the situation in the Saar had become practically intolerable to him.<sup>28</sup> The Council accepted the resignation of the Canadian member, but its Rapporteur in the course of his report on the matter, along with other complimentary remarks, observed that "Mr. Waugh has won from the population of the territory general esteem, and he has been praised for his honesty of purpose and disinterested impartiality."<sup>29</sup>

The Council appointed as a successor to Mr. Waugh another Canadian, Major G. W. Stephens.<sup>30</sup> The latter had had considerable experience in Canada as an administrator, and had been for several years President of the Montreal Harbor Commission.<sup>31</sup> He is said to speak both French and German.<sup>32</sup> Upon his arrival in the Territory in November he took charge of the Department of Finance.<sup>33</sup>

The next surprise came when the Council at its meeting of December 15 failed to make appointments to the Governing Commission for the following year, but postponed the matter by merely prolonging the appointment of the incumbents from February 13, 1924 to March 31, 1924.<sup>34</sup> Apparently an agreement on candidates could not be reached, and for that reason the matter was put over to the March meeting of the Council.<sup>35</sup>

When the Council met on March 15 the Italian representative, M. Salandra, as Rapporteur, revealed that the Danish and Saar members had asked that their names be not considered for re-appointment.

<sup>28</sup> Based on letter from Mr. Waugh to writer. Apparently Mr. Waugh had no expectation that the French chairman of the Commission would lose his "docile majority" and no hope that they would discontinue carrying out the wishes of the French government.

<sup>29</sup> *L. N. O. J.*, 4th year, no. 11, 1482 for the report to the Council.

<sup>30</sup> *Ibid.*, 1319.

<sup>31</sup> Canadian *Who's Who*, 1922.

<sup>32</sup> *London Times*, January 11, 1924.

<sup>33</sup> Sixteenth Period Rept. Gov. Com., *L. N. O. J.*, 5th year, no. 3, 446. After the 15th of August, when Mr. Waugh left the Territory, the Department of Finance was temporarily administered by the Danish member, and then by the Chairman. (*Ibid.*, and Fifteenth Period Rept. Gov. Com., *L. N. O. J.*, 4th year, no. 12, 1551.)

<sup>34</sup> *L. N. O. J.*, 5th year, no. 2, 351.

<sup>35</sup> Perhaps there were too many candidates anxious to succeed the Danish member who, incidentally, had not yet resigned. Mussolini is said to have suggested on December 11 an Italian for one of the positions (Levermore, *Fourth Year Book of the League of Nations*, 395) and the Spanish representative also proposed a Spanish candidate in December (*L. N. O. J.*, 5th year, no. 4, 545).

See also *London Times*, December 13, 1923, 11, suggesting that "existing political circumstances" would probably keep the Council from making the appointments until a later session.

Before suggesting the names of candidates to succeed them he called the attention of the Council to a petition of the Catholic Deans of the Saar requesting that the member of the Commission to be put in charge of education and worship should be a Catholic, as three-fourths of the population was Catholic. He thought the point should receive consideration by the Council. M. Salandra also recalled that in November, 1923, Lord Robert Cecil had circulated a memorandum to the Council expressing the view that it should appoint as Saar member a man possessing the confidence of the population. Recently a petition had been received from representatives of the political parties of the Saar asking that the Council invite the elected representatives of the population to make proposals on the subject of the Saar member.<sup>36</sup>

M. Salandra then proposed that the French and Belgian members of the Commission be re-appointed, and that the French member should be re-appointed to the Chairmanship of the Commission. For the place left vacant by the Danish member he proposed the name of M. Espinosa de los Monteros, a Spaniard and a Catholic; and for the Saar member he proposed the name of M. Kossman.

On the question of consulting the elected representatives of the population about the appointment of the Saar member M. Hanotaux took the position that it would be contrary to the Treaty, while Lord Parmoor, the new representative of the British Labor government, and Mr. Branting of Sweden concurred in the opinion that it would not be in violation of the Treaty. Lord Parmoor did not insist on the matter, however, but asked that it be recorded in the minutes that he had made an observation on the subject.<sup>37</sup>

The candidate of the elected representatives of the Saar population for the position of Saar member of the Commission was Dr. Franz Levacher, leader of the Center party, the strongest party in the Saar. The leader of the second strongest party, the Social Democratic group, was also present at Geneva to urge the appointment of Dr. Levacher.<sup>38</sup> Mr. Kossman, whom Cecil and Hanotaux agreed upon in December,

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<sup>36</sup> *L. N. O. J.*, 5th year, no. 4, 544-545, for report of Salandra.

<sup>37</sup> Lord Parmoor's acquiescence is explained by the fact that in December Lord Robert Cecil had committed M. Hanotaux to support Dr. Kossman for the position. Cecil apparently believed that Kossman had the confidence of the Saar population. The new British Labor Government felt it necessary to honor the agreement that had been entered into at the instance of Lord Robert Cecil. See *London Times* of March 28, 1924, 7, for explanation of the matter by Prime Minister MacDonald.

<sup>38</sup> *Manchester Guardian Weekly*, March 21, 1924, 231; *London Times*, March 17, 1924.

was probably under suspicion because, although a former member of the Reichstag, he had so far won the confidence of M. Rault as to be appointed President of the advisory council, and had accepted the appointment, although the political parties represented in the advisory council were demanding the right to elect their presiding officer.<sup>39</sup> Kossman, however, was chosen by the Council to succeed Mr. Land on the Governing Commission.

Mr. Branting proposed a Norwegian judge to fill the vacancy left by Count Moltke-Huitfeldt. The judge was a Protestant, but Mr. Branting was confident from conversations he had had with the Saar representatives that his candidate would be welcomed even by the Catholic (Center) party. He also urged that owing to similarity of race and habit a Scandinavian would understand thoroughly the mentality of the population. When the ballot was taken, however, the Spanish candidate won by seven to three votes.<sup>40</sup>

In the meantime old issues still disturbed the serenity of Council meetings at which Saar matters were considered. At the meeting of December 15, Lord Robert Cecil wanted to learn from the Chairman of the Commission, who was present at the meeting, why the picketing ordinance had not been withdrawn and when it would be possible to withdraw it. M. Rault went into the circumstances under which the decree had been introduced—there had been a three-months' strike involving a financial loss of about a milliard francs, the pickets had intimidated those desiring to work, and he had been urged by his government as the representative of France to take the necessary steps to insure the free exploitation of the mines.

The decree had been submitted to the advisory council, M. Rault explained further, but the latter had repeatedly refused to discuss it and it had therefore remained in force as a provisional decree. It would be impossible to say when it would be withdrawn. The mere placing of the question on the Council agenda had sufficed to arouse immediate agitation in the Saar. A kind of strike had been threatened. To withdraw the decree in such circumstances would be an act of weakness and imprudence. The three other members of the Commission who had voted for the decree—Count Moltke, Major Lambert, and

<sup>39</sup> Supra, 181–182.

<sup>40</sup> *L. N. O. J.*, 5th year, no. 4, 545. M. Espinosa, however, served but a few months. He died August 21, 1924. The Council, on August 29, 1924, appointed M. Vezensky (Czechoslovak), a judge of the Supreme Court of the Saar Territory, as a member of the Commission (*L. N. O. J.*, 5th year, no. 11, Part II, 1703).

M. Land—were unanimous in considering it would be inadvisable to withdraw it at this time. The new Canadian member had not been consulted because he had not been on the Commission at the time the decree had been issued.<sup>41</sup>

After M. Rault had concluded Mr. Branting observed that the refusal of the advisory council to discuss the decree showed there was a difference of opinion between the population and the Governing Commission which it would be well, if possible, to remove. He regretted that the Canadian member had not been consulted, and he hoped it would be possible for the Governing Commission to reconsider the question. To which M. Hanotaux replied that he thought the decree would be reconsidered as soon as circumstances permitted, but that everybody agreed that the moment was not opportune. It was not evident, however, to one going over the minutes of this meeting that Mr. Branting or Lord Robert Cecil thought so. The latter did not push the matter farther, though, but reserved the right to bring it up at a future meeting.<sup>42</sup>

Since the Council began the practice of requiring the Governing Commission to submit each year in advance of its adoption of the budget its program for increasing the size of the local gendarmerie,<sup>43</sup> the question finds its place on the Council agenda at least once a year free from the taint of German initiative and German propaganda. Thus in due course the matter came before the Council at its meeting of March 11, 1924. At that meeting the Italian representative, M. Salandra, made a report in which it appeared that the Governing Commission, through its Chairman, had advised the League that on account of financial reasons it could not increase the local gendarmerie by more than 200 men for the year 1924–1925<sup>44</sup>

Lord Parmoor, representing the new Labor government of Great Britain, was not satisfied with this decision. He informed the Council and M. Rault and Major Stephens, who were present, that all the parties represented in the advisory council had stated that they were willing to bear what additional taxation might be necessary for the immediate increase of the local gendarmerie by 500 men. He also repeated their opinion that a total of 1000 men would be sufficient for

<sup>41</sup> *L. N. O. J.*, 5th year, no. 2, 352.

<sup>42</sup> *Ibid.*, 352–353. The Governing Commission finally issued a new decree on July 15, 1924, explicitly authorizing picketing. (*L. N. O. J.*, 5th year, no. 12, 1783.)

<sup>43</sup> *Supra*, 203.

<sup>44</sup> *L. N. O. J.*, 5th year, no. 4, 582, for text of report.

the Saar in addition to the ordinary local police which numbered about 500 men. And he expressed his own opinion to the effect that the Germans had made out a strong case for adhering to the original 500 increase contemplated.<sup>45</sup>

M. Rault pointed out once more that the Governing Commission was responsible for public security in the Saar, and asserted that it would be impossible to get along with only 1000 men. In order to insure public security in the Saar he said it was indispensable to have a gendarmerie of some 3000 men.<sup>46</sup> He then explained that he had presented to the Governing Commission a detailed report providing for the establishment for the year 1924–1925 of 500 additional gendarmes, and containing an estimate of the cost of such an increase and similar increases in 1926–1927, when there would be a gendarmerie of 1500 men. The cost would then rise according to his estimate, to between thirty and thirty-five million francs.<sup>47</sup> The financial condition of the Commission, however, was becoming worse, it had had to raise the salaries of officials, and altogether the situation was bad.

In view of this situation Mr. Stephens, the new Canadian member, had prepared an alternative plan to add only 200 men to the gendarmerie, M. Rault explained. This had been adopted by four votes to one abstention. M. Rault then added that he had been the abstainer, and that he had so acted out of deference to the Council, which had expressed itself as desiring such an increase. He would say, though, that he was in agreement with Major Stephens that the increase was impracticable from the financial standpoint.

Mr. Stephens was also present at the meeting and said that personally he would have liked to support the increase of the gendarmerie but was obliged to advise against it for financial reasons. If, however, the financial situation showed improvement during the year he asserted that he would be the first to propose an increase in the local gendarmerie and a decrease of the military forces.<sup>48</sup>

Lord Parmoor, after duly noting that M. Rault and Major Stephens were in favor of an increase in the gendarmerie as soon as it could be carried out, urged that an attempt should be made to raise the necessary funds at the earliest possible moment. Mr. Branting

<sup>45</sup> *Ibid.*, 506.

<sup>46</sup> In 1922 M. Rault had placed the minimum at 4000 men (*L. N. O. J.*, 4th year, no. 3, 363).

<sup>47</sup> *L. N. O. J.*, 5th year, no. 4, 506.

<sup>48</sup> *Ibid.*, 507.

associated himself fully with the views of Lord Parmoor and, perhaps inadvertently, spoke of the French troops as "troops of occupation."

M. Hanotaux could not let the phrase pass. It was used in propaganda, he said, but it was incorrect and must be abandoned once for all. There were no "troops of occupation" in the Saar, but merely a "garrison." And a garrison was necessary to provide against serious events, such as the outbreak of strikes. Ignoring the offer of the local population to pay the extra cost involved in a further increase of the gendarmerie he recalled that the Saar was experiencing financial difficulties, and that the upkeep of the French soldiers did not constitute a burden on the Saar budget as the cost was borne by France. Apparently M. Hanotaux felt it necessary first of all to protect the Sarrois against themselves.<sup>49</sup>

In the resolution the Council adopted it expressed the hope that, should the financial situation in the meantime improve, the Governing Commission might reconsider the matter during the current year. The financial situation apparently showed an improvement almost immediately, for within a month from the time the Council adopted the resolution the Governing Commission met and decided that it would be financially feasible to increase the gendarmerie by 400 instead of by 200 men.<sup>50</sup>

As for the relationship between the Governing Commission and the Saar population, petitions of grievances still flow to Geneva as before the inquiry. On November 25, 1923, certain political parties represented on the advisory council sent a petition to the League complaining of preponderant French influence in the government of the Territory, and criticizing the economic and financial policy of the government as well as its handling of the housing situation.<sup>51</sup>

In February, 1924, a letter signed by the leaders of the principal political parties of the Saar was sent to the London *Times* alleging the opening of new French schools in the Territory contrary to the Treaty, and the employment of pressure on German workers to compel them to send their children to these schools. Other charges were that the French in the Territory were carrying on an active propaganda in

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<sup>49</sup> *Ibid.*, 507-508.

<sup>50</sup> *L. N. O. J.*, 5th year, no. 6, 889, for text of letter from M. Rault advising the Council of the decision of the Commission. The proposal for the increase was made by Major Stephens, who must have changed his mind after further study of the question.

<sup>51</sup> *L. N. O. J.*, 5th year, no. 5, 811.

favor of a Separatist party, that the Governing Commission had altered the electoral law in an attempt to defeat the will of the people, that the picketing ordinance had not been withdrawn, and that the number of troops in the Territory had not been reduced.<sup>52</sup>

The London *Times* correspondent at Saarbrucken is inclined to agree as to the validity of these and other grievances, but whether he is right or wrong the remarks that follow may be accepted, on the basis of much confirmatory evidence from various quarters, as correctly describing the situation in the Saar:<sup>53</sup>

The people of the Saar have regular work, good wages, abundance of food, and low taxation, and living is cheap. In all material things they enjoy comforts equal to their best favored neighbors, and incomparably better than their compatriots in Germany. And yet these people are thoroughly dissatisfied, discontented, and rebellious in spirit. . . .

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<sup>52</sup> London *Times*, February 23, 1924, 12.

<sup>53</sup> *Ibid.*, January 8, 1924, 6. There are those in touch with the situation who are inclined to question whether the dissatisfaction is not principally confined to the political leaders of the Territory rather than being true of "the people." In the writer's judgment the dissatisfaction is rather widespread, although there is no question but that many of the leaders are quite assiduous in keeping it alive and promoting it. Just at present they have an *economic* argument of some weight. The German mark has been stabilized, and the French franc, made the sole legal currency when it was relatively stable, is today fluctuating and, therefore, an unsatisfactory currency. Indeed the depreciation of the franc at the beginning of 1924 caused grave economic difficulties in the Saar (Eighteenth Period Rept. Gov. Com., *L. N. O. J.*, 5th year, no. 9, 1186). This in turn led to further complaints from groups in the Advisory Council to the Council of the League. (*L. N. O. J.*, 5th year, no. 11 (Part II), 1705.)

## CHAPTER IX

### CONCLUDING OBSERVATIONS

The decision to transfer the coal mines and deposits of the Saar Basin to the French State would seem to be a grave mistake whether regarded from the standpoint of European pacification or from the point of view of French interests. France was entitled—not even the Germans disputed the fact—to reparation in kind for the wanton damaging of her coal mines, but the transfer of the Saar mines was not the simplest and most natural way to secure it. The American economic advisers, who argued that Germany should retain her mines but should be required in the Treaty to make adequate coal deliveries to France over a period of years, would seem to have had a stronger grip upon realities than the historians, who contended not only that the mines should pass to France but that a special political and administrative régime should be set up in the Saar.

One of the members of the committee that worked out the solution embodied in the Treaty has remarked with gentle cynicism that "a mine in hand is worth many contracts to deliver."<sup>1</sup> Surely that will depend upon the price that is paid, and the price must be reckoned partly in terms of international friendships upon which beneficial economic relationships must ultimately depend. Perhaps this psychic price could not be envisaged in 1919, but after five years there are those who think it has been too high. As the Saar arrangement has been working out, certainly, it has increased the strain along the Franco-German frontier. A new area of friction has been added, and old wounds on both sides of the frontier line have been aggravated not healed.

From another point of view the decision to transfer the mines of the Saar to France was unfortunate. It proved the entering wedge for other forms of economic control, and laid the foundation for the exercise of political influence and pressure by France hardly compatible with the professed character of the régime provided for in the

<sup>1</sup> Dr. Haskins, in *Haskins and Lord, op. cit.*, 143.

Treaty. As soon as the French won their point that they should own the mines they could argue plausibly that if their efforts to exploit them and dispose of the product were not to be hindered or paralyzed altogether by the Germans certain economic easements and servitudes were essential. When these were written into the Treaty they in turn prepared the way for other economic concessions not provided in the Treaty, to be sure, but which German industrialists could hardly avoid granting under the circumstances. For example, the French soon acquired a controlling interest in nearly all of the important industries of the Saar, for they were in a position to exert the economic pressure necessary to convince the Germans that it would be a losing fight to attempt to hold out against them. It remains as true today as when Alexander Hamilton called it to the attention of our forefathers, that "a power over a man's subsistence amounts to a power over his will."<sup>2</sup>

We may also accept as one of the axioms of politics that to him who hath economic power shall be given political influence. Under the Treaty the French State secured such an economic grip on the Saar and such opportunities for further economic penetration that the temptation to exert political influence and determine political policy was, in view of the plebiscite provisions, exceedingly strong—in fact too strong to be resisted. Indeed this was anticipated to a certain extent in the Treaty in which important though insufficient guarantees on behalf of the population were incorporated.

The decision to hold a plebiscite after fifteen years was also unfortunate—perhaps the more unfortunate of the two decisions. If the Treaty framers had merely provided that France should have the mines for a limited period during which the Saar would be under international control but that German sovereignty would automatically be restored at the end of that period, both the French and Germans would at least have been robbed of a strong motive, which they have under the present arrangement, for carrying on incessant propaganda in the Territory in order to influence the plebiscite in 1935. Moreover, it was hardly wise or just, in the absence of a compelling international interest, to inflict on a community such as the Saar a long period of suspense and uncertainty as to its political and economic destiny.<sup>3</sup>

<sup>2</sup> *The Federalist*, no. LXXIX.

<sup>3</sup> It must be remembered, too, that the people of the Saar are likely to encounter new problems in 1935. If they vote to return to the German State, as their sentiments incline them, they will be faced with an economic and financial crisis on account of the necessary economic changes connected with

Nor can the decision for a deferred plebiscite in the Saar be defended on the ground that there was a large French minority in the Territory as well as many Germans who could be won over to France by legitimate means during the period. Although it was alleged by M. Clemenceau in 1919 that there were 150,000 Frenchmen in the Saar the statement was demonstrably untrue and, indeed, does not seem to have been claimed by the French historical experts. That the population is thoroughly German in its sympathies as well as in its ethnic makeup cannot, in the light of the events of the last five years, be doubted.

In view of these facts, which were capable of verification in 1919 and, indeed, which seem to have been understood by President Wilson and his advisers, the historical case of the French, which was by no means a strong one, loses much of its point. It may be remarked in this connection that the so-called "Prussian robbery" of 1815, whereby France had to part with German territory—territory that had been originally secured by her through conquest, was a "robbery" to which the Powers put their signatures after the reappearance of the Napoleonic specter, and because they saw in Prussia a Power capable of preventing future aggression on the part of France. Aside from these considerations, however, there is the fact that France in 1918 publicly accepted the program of peace proposed by President Wilson in his Fourteen Points speech, making no reservation with respect to the eighth point which called for the righting of "the wrong done to France by Prussia in 1871. . . ."

Regarding the Treaty arrangements designed to carry out the decisions to transfer the mines and set up a provisional political and administrative régime, it may be remarked that no such experiment in international government and administration had ever been attempted before. The international commission had been most frequently resorted to where experience had demonstrated that separate national action or spasmodic international conferences would not serve certain continuing needs of the international community, and that continuously functioning organs of international coöperation were indispensable. The various international river commissions set up during

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a return to German currency, to the German customs régime, etc. Their situation, indeed, might be desperate if the French still continued to hold the occupied territories west of the Rhine, thus isolating the Saar. This now seems unlikely, but Poincaré in 1923 held that the fifteen-year period of occupation had not begun to run because Germany had not begun to live up to her reparations obligations.

the nineteenth century in response to the demands of commerce, furnish an example of such a species of coöperation.

Less frequently, international coöperation had also been attempted in the government of backward peoples, but in no case had the attempt ever before been made even for a limited period to apply the principle of international government to a homogeneous group of people, of political maturity, and held by strong ties of national sentiment and economic interest to a State from which they did not desire to be separated.

Looked at from the standpoint of principle, however, the limits of international interference and control even over advanced populations cannot be laid down rigidly. For instance, the establishment of a provisional international régime over a given territory may appear as the only alternative to the annexation of this territory by a state whose action may have the effect of seriously unsettling international relations. In such a case international control may, at least, be the lesser of two evils. It was, indeed, as an alternative to annexation by France or the establishment of French control under a mandate, that President Wilson was constrained to suggest the expedient of an international régime for the Saar.

In the Treaty provisions for this international régime there were some excellent features. In view of the extensive property rights and economic privileges granted to France it was proper and indeed necessary that one of the members of the Governing Commission should be a Frenchman. It was likewise both just and expedient to provide that the Saar itself should have a representative on the Commission. If the Commission was to be truly international, however, a controlling majority of its members must not be preoccupied with the defense of special interests, but must be free to approach their task with international-mindedness. Apparently the Treaty framers had this in mind when they provided that a majority of the members of the Commission were to be appointed from countries other than France or Germany, and that the majority should rule. Special interests were to be represented but not given the power to obstruct or to take precedence over the interests of the European community.

In view of the difficult problems the Governing Commission was to be called upon to deal with, and in order that its work should not be hampered from the outside, the decision to grant it large powers was also justified. It is not so clear, however, that it should have been

given the power to place its own interpretation without appeal upon the provisions of chapters 1 and 2 of the annex to article 50 of the Treaty in view of the fact that the ultimate responsibility for the Government of the Saar must be borne by the League of Nations.

Doubtless it was felt by the framers that by making the Commission responsible to the League, and by providing for annual appointments by the Council, the Commission's views on all vital matters of Treaty interpretation could be brought into harmony with those of the League, and at the same time the Commission would be left with a maximum amount of freedom for the carrying out of its rather difficult task. It scarcely needs to be demonstrated, however, that the expedient of annual appointments was unwise for other reasons, and that a longer tenure—possibly five years—would have been much better.<sup>4</sup> At the same time the power to review decisions of the Commission on doubtful points of the Treaty might well have been specifically given to the Council of the League.

One may question, of course, whether this burden of international government and administration should have been put upon the League at all at the very beginning of its existence. It had no trained administrators upon whom it could rely, and no precedents to serve as a guide. And it was handicapped in other and more serious ways. Although something more than an alliance of the victors of the war, being open to neutral states and even eventually to the late enemy Powers, its constitution was fashioned by the Principal Allied and Associated Powers, and it was perhaps inevitable that during the first years of its existence it should be controlled (the United States excepted) by the same Powers. Under such circumstances it could hardly handle its responsibilities as to the Saar with complete impartiality and detachment.

Nevertheless it must be said that the Saar experiment has demonstrated that the new League processes are undoubtedly superior to the diplomatic processes of the pre-war period in handling such questions. The members of such a commission before the war would have looked to those governments for instructions, and would normally have reported severally to these governments. The governments themselves would have dealt with one another on matters arising in con-

<sup>4</sup> *Supra*, 205, for reasons actuating the Council at the time of its decision to provide, virtually, for a five-year tenure for the members of the Governing Commission.

nection with the commission's activities, in the long and indeterminate intervals between international conferences, by means of diplomatic notes or ambassadorial conversations. There would have been an almost complete lack of publicity, and no opportunity at all for the focusing of the public opinion of the world on anything that was done. All of which, naturally, provides a maximum of opportunity for deals, bargains, and intrigues behind the scenes and a minimum of opportunity for the impartial consideratioin of questions theoretically left to such a commission to be studied and settled on their merits and without reference to self-seeking national policies.

To separate the members of an international commission from their several governments and to tie them to the League of Nations and require them to render an account of their activities to it does not, of course, guarantee that they will never serve national interests at the expense of the interests of the international community. An examination of the actual functioning of the Saar Commission shows that that danger has not been eliminated. On the other hand it would seem that the grosser manifestations of partisanship are less likely to be endured and that the triumph of special interests is rendered more difficult when subjected to the scrutiny of organs of the League in which some representatives, at least, of disinterested nations are present and have the legal right and, indeed, duty to speak out on behalf of the common welfare.

From the standpoint of administrative achievement the consensus of opinion is that the Governing Commission of the Saar has achieved success under difficult circumstances. It has so far failed, nevertheless, to win the confidence and respect and willing coöperation of the people of the Saar. Whether, in view of the strong German nationalist feeling in the district, any international commission, operating under the Treaty terms, could succeed in arousing more than a cautious grudging approval by the population may be doubted. Yet it is worth noting that one of the former members of the Commission, after an experience of three years in the Saar, expressed the conviction that the chief if not the sole difficulty lay in the strong French bias of the majority of the members of the Governing Commission and their tendency to serve first of all French interests. If an impartial commission were appointed and French propaganda were to cease, in his opinion the people of the Saar would loyally support such a commission, and the government of the Territory might be made an

unqualified success. This may be too optimistic a view, but whether it is or not, such causes for opposition to the Governing Commission should be removed.

Without amending the Treaty, it would seem that certain things can be and should be done toward an amelioration of the political situation in the Saar and a lessening of the tension in the district. Evidently the place to start is with the personnel of the Governing Commission itself. A majority of its members should be chosen not only for their administrative skill and experience but for their strict and unquestioned impartiality. Furthermore it would seem essential that the Chairman of the Commission should be chosen from among the three neutral members,<sup>5</sup> for the Chairman, as executive of the Commission, exercises considerable discretion and influence, and he should not be committed to the service of special interests.

The suggestion supported by the British and Swedish members of the Council, that in the future the Saar member of the Commission should be appointed after consultation with the elected representatives of the Territory, is entirely reasonable, and would almost certainly have a good effect on the population. Impartiality, of course, could hardly be expected of the Saar member, but neither is it expected of the French member. The latter is nominated by the French government and elected by the Council because he is *persona grata* to France. Dependence must in the nature of things be placed on the Chairman and his two neutral colleagues to hold the Commission to a disinterested course.

Finally, the Governing Commission should with all possible despatch place itself in a position to dispense with the French troops.<sup>6</sup> Reasons having to do with French military strategy should not be allowed to take precedence over the clear intent of the Treaty in this matter. The question of cost should no longer be a deterrent to the establishment of an adequate local gendarmerie since the inhabitants of the Territory have expressed themselves as able and willing to bear it. On the other hand, in so far as the French government is concerned with the protection of its property rights the troops might be stationed just over the border in Lorraine to be utilized in case of an emergency.

<sup>5</sup> On March 18, 1926, after the present study had been sent to press, the Council selected Mr. Stephens, the Canadian member, as Chairman of the Commission. (*The Monthly Summary of the League of Nations VI*, no. 3, 64.)

<sup>6</sup> According to the *New York Times* of April 3, 1926, the French government has given orders for the complete evacuation of the Saar by French troops.

In any event the troops of a single interested Power should not be retained in a plebiscite territory for the maintenance of order or for any other reason.

At the moment there are several encouraging signs in Europe that have their significance for the Saar as well as for other parts of the continent. The era of bitterness and distrust and inflamed nationalism seems to be passing and a somewhat more generous spirit is evident between erstwhile enemies. Unless something unforeseen occurs Germany will become a member of the League in the near future. The fact that France is now agreeable to the entry of her late enemy is in itself indicative of the better feeling that is gradually manifesting itself in the relations of the two countries. On the other hand, the admission of Germany into the League with a place on the Council will mean that the Saar will have an informed and vigilant champion with a voice and a vote equal to that of France on Saar questions. Under these circumstances it is to be expected that the decisions of the Council and the activities of the Governing Commission are more likely to be in accord with the apparent intent of the Treaty.

## APPENDIX

## SOURCE MATERIAL

## I. PUBLIC DOCUMENTS OFFICIALLY PRINTED.

## LEAGUE OF NATIONS:

*Official Journal*, 1920—

Chief reliance in any study of the Saar régime must be placed upon this source. It is issued once a month, and contains, in addition to the text of the Covenant of the League, minutes of all the meetings of the Council of the League, reports of its subcommittees, the texts of the quarterly reports and also of most of the special reports of the Saar Basin Governing Commission, most of the correspondence exchanged between the Secretariat of the League and other governments, texts of memorials, petitions, etc., from political and other organizations in the Saar Territory, and, in general, documents forwarded by the Saar Basin Governing Commission as appendices to its reports. Such attention as the Assembly of the League has paid to the Saar question may be found in the Records of the Assembly, issued as special supplements to the Official Journal, and containing the debates that take place at the annual meetings.

*Treaty Series*, 1920—

The international engagements entered into by the Saar Basin Governing Commission with other governments are registered at the Secretariat and published in the Treaty Series.

## SAAR BASIN GOVERNING COMMISSION:

*Amtsblatt des Saargebiets*, 1920—

In addition to its reports to the League, the Commission publishes an *Official Journal* (*Amtsblatt*) in German about once a month, on the average, containing texts of its ordinances, decrees, proclamations, etc. The more important of these are also to be found in English in the *Official Journal* of the League. The Proceedings of the Advisory Council have also been published since its establishment in 1922.

## GERMAN GOVERNMENT:

*Das Saargebiet unter der Herrschaft des Waffenstillstandsabkommens und des Vertrage von Versailles*, 1921.

This "White Book" consists of a variety of documents collected by the German government and designed to expose in an unfavorable light French activities in the Saar and the attitude and policies of the Governing Commission.

**BRITISH GOVERNMENT:*****Parliamentary Papers*—**

In addition to Parliamentary Debates, certain of the Command papers have touched upon the Saar question. The writer has also relied upon the British official text of the Treaty of Peace between the Allied and Associated Powers and Germany, signed at Versailles, June 28, 1919.

**FRENCH GOVERNMENT:**

*Journal Officiel de la République Française: Débats Parlementaires.*

**II. PUBLIC DOCUMENTS UNOFFICIALLY PRINTED.**

Baker, R. S., *Woodrow Wilson and World Settlement*, Volume III contains documents of value bearing directly and indirectly on the Saar question.

**International Conciliation:**

The American Association for International Conciliation in its monthly publication has printed a number of documents bearing on the Treaty of Versailles as well as the text of the Treaty itself. The Manchester *Guardian*, March 5, 1923, contains an alleged report on the Saar of a French Commission sent into the Rhineland in 1922.

Osborne, Sidney, *The Saar Question*, contains as appendices many of the reports of the Governing Commission as well as other documents.

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**III. YEAR BOOKS OF THE LEAGUE OF NATIONS.**

The First, Second, Third, and Fourth *Year Books* were compiled by Charles H. Levermore and published by the Brooklyn *Daily Eagle*, Brooklyn, New York. They contain excerpts from official documents as well as summary accounts of the various activities of the League.

The *Year Books* for 1924 and following years are to be published by the World Peace Foundation, Boston, Massachusetts.

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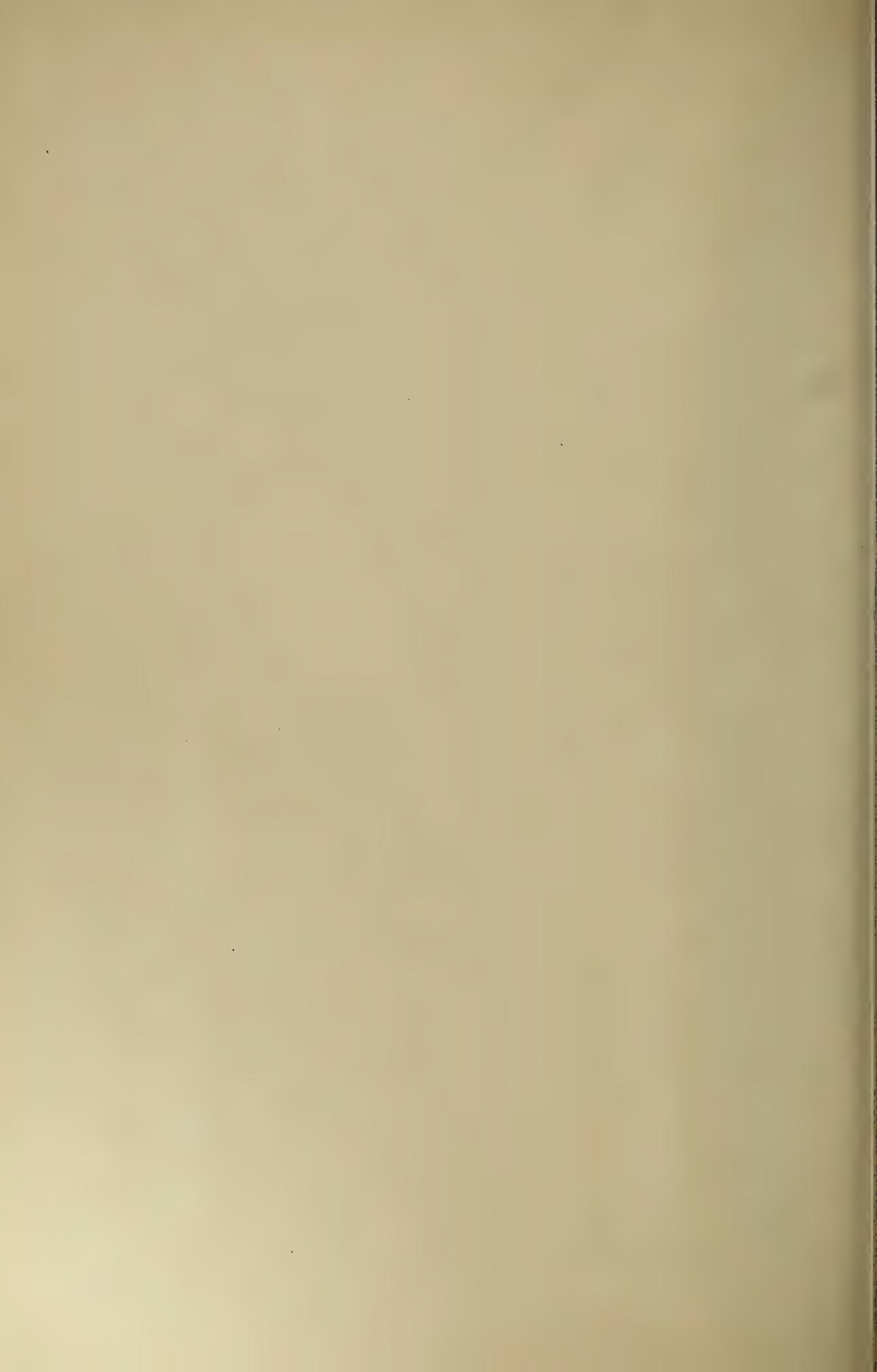
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